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नई दिल्ली, जनवरी 5—जनवरी 11, 2025, शनिवार/ पौष 15—पौष 21, 1946

No. 53]

NEW DELHI, JANUARY 5— JANUARY 11, 2025, SATURDAY/PAUSHA 15—PAUSHA 21, 1946

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(राजस्व विभाग)

(केन्द्रीय अप्रत्यक्ष कर एवं सीमा शुल्क बोर्ड)

नई दिल्ली, 26 दिसम्बर, 2024

का.आ. 2279.—केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में राजस्व विभाग के अधीन, निम्नलिखित कार्यालयों जिनके 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्य साधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है:

1. केन्द्रीय माल और सेवा कर एवं केन्द्रीय उत्पाद शुल्क, इंदौर प्रभाग-I
2. केन्द्रीय माल और सेवा कर एवं केन्द्रीय उत्पाद शुल्क, इंदौर प्रभाग-II
3. केन्द्रीय माल और सेवा कर एवं केन्द्रीय उत्पाद शुल्क, इंदौर प्रभाग-III

4. केंद्रीय माल और सेवा कर एवं केंद्रीय उत्पाद शुल्क, इंदौर प्रभाग-IV
5. केंद्रीय माल और सेवा कर एवं केंद्रीय उत्पाद शुल्क, इंदौर प्रभाग-V
6. केंद्रीय माल और सेवा कर एवं केंद्रीय उत्पाद शुल्क, इंदौर प्रभाग-VI
7. केंद्रीय माल और सेवा कर एवं केंद्रीय उत्पाद शुल्क, इंदौर प्रभाग-VII
8. केंद्रीय माल और सेवा कर एवं केंद्रीय उत्पाद शुल्क, इंदौर प्रभाग-देवास
9. सीमा शुल्क आयुक्तालय, मुंदरा
10. मूल्यांकन महानिदेशालय, मुंबई
11. केंद्रीय माल एवं सेवा कर आयुक्तालय, कच्छ (गांधीधाम)
12. केंद्रीय माल और सेवा कर मण्डल कार्यालय, भुज

[फा. सं. ई-11017/3/2017- हिन्दी-2 डीओआर]

शिशिर शर्मा, संयुक्त निदेशक (राजभाषा)

MINISTRY OF FINANCE

(Department of Revenue)

(CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS)

New Delhi, the 26th December, 2024

S. O. 2279.—In pursuance of sub rule (4) of Rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976, the Central Government, hereby notifies, the following offices under Department of Revenue where more than 80% staff has acquired the working knowledge of Hindi:

1. Central Goods and Services Tax and Central Excise, Indore Division-I
2. Central Goods and Services Tax and Central Excise, Indore Division-II
3. Central Goods and Services Tax and Central Excise, Indore Division-III
4. Central Goods and Services Tax and Central Excise, Indore Division-IV
5. Central Goods and Services Tax and Central Excise, Indore Division-V
6. Central Goods and Services Tax and Central Excise, Indore Division-VI
7. Central Goods and Services Tax and Central Excise, Indore Division-VII
8. Central Goods and Services Tax and Central Excise, Indore Division-Dewas
9. Customs Commissionerate, Mundra
10. Directorate General of Valuation, Mumbai
11. Central Goods and Services Tax Commissionerate, Kutch (Gandhidham)
12. Central Goods and Services Tax Division Office, Bhuj

[F. No. E-11017/3/2017- Hindi-2 DOR]

SHISHIR SHARMA, Jt. Director (OL)

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 20 नवम्बर, 2024

का.आ. 2280.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सन सिक्कूरिटी सर्विसेज, सर्वे नं.67 परमार नगर, पुणे; महाप्रबंधक, बीएसएनएल, अहमदनगर; उपविभागीय अभियंता, बीएसएनएल, कोपरगांव अहमदनगर, के प्रबंधन के संबद्ध नियोजकों और श्री लक्ष्मण कचरू पानसरे, कामगार, के बीच अनुबंध में निर्दिष्ट श्रम न्यायालय, अहमदनगर, पंचाट(संदर्भ संख्या Reference (IDA) No.29/2019

(CNR No. MHLC160000852019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 13.11.2024 को प्राप्त हुआ था।

[सं. एल – 42025-07-2024-140-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 20th November, 2024

S.O. 2280.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference (IDA) No.29/2019(CNR No. MHLC160000852019)**) of the **Labour Court, Ahmednagar**, as shown in the Annexure, in the Industrial dispute between the employers in relation to **Sun security Services, Survey No.67 Parmar nagar, Pune; The General Manager, BSNL, Ahmednagar; The Sub division Engineer, BSNL, Kopargaon Ahmednagar, and Shri Laxman Kacharu Pansare, Worker**, which was received along with soft copy of the award by the Central Government on 13.11.2024.

[No. L-42025-07-2024-140-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXUER

IN THE LABOUR COURT AT AHMEDNAGAR

(Before Shri Sharad G.Deshpande Presiding Officer, Labour Court ,Ahmednagar)

Exh. O-11

Reference (IDA) No. 29/2019

(CNR No. MHLC160000852019)

1. M/s.Sun Security Services,
Survye No.67, 1st Floor,
Parmar Nagar-3,
Pune 411013.
2. The General Manager,
Bharat Sanchar Nigam Ltd.,
D.T.O. Compound, Near G.P.O.
Ahmednagar 414002.
3. Sub Divl. Engineer,
Bharat Sanchar Nigam Ltd.,
Kopargaon, Distt, Ahmednagar
Ahmednagar 414002.

... **First Party**

Vs.

Laxman Kacharu Pansare,
Age: 28 years, Occ.: Nil,
C/o. Jakhuri, Po.: Pimparne,
Tal.: Sangamner, Dist.Ahmednagar
Ahmednagar 414002.

... **Second Party**

AWARD

(Date: 10-07-2024)

1. This reference is referred by the Section Officer, Government of India/Bharat Sarkar Ministry of Labour, New Delhi vide referral order dated 28-03-2019 for adjudicating the matter, in which the Second party Laxman Kacharu Pansare was dismissed from service on 9-2-2018. The reference was made to decide issue 1. whether the action taken by the Company is legal, proper and in accordance with natural justice. 2. Does he deserves to reinstate with full back wages and continuity in service ?
2. Accordingly, the second party Laxman Kacharu Pansare has filed his statement of Claim on record. In pursuance of notice, First Party no.2 & 3 appeared and filed their W.S. but though notices is served to First Party No.1 he did not appear and not file any W.S.
3. The Second Party remained absent and though various opportunities given to him he did not adduce any evidence. Therefore, this Court having no alternative but to record negative finding to both the issues. Therefore I am inclined to pass the following order-

AWARD

1. The reference is answered in the “negative”.
2. Four Copies of this award be sent to the Section Officer, Government of India/ Bharat Sarkar Ministry of Labour/ Shram Mantralaya, New Delhi for information and necessary action.

Ahmednagar

Dated :10.07.2024

SHARAD G. DESHPANDE, Presiding officer

नई दिल्ली, 26 नवम्बर, 2024

का.आ. 2281.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रबंधक, राष्ट्रीय विज्ञान संस्थान, पूसा कॉम्प्लेक्स, दिल्ली; प्रबंधक, राजेंद्र सिंह सुरक्षा एजेंसी, मानसरोवर गार्डन, नई दिल्ली, के प्रबंधन के संबंधित नियोजकों और श्री रमेश, कामगार, द्वारा - महासचिव, राष्ट्रीय राजधानी श्रमिक संघ (रजि.), नजफगढ़, नई दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-1 नई दिल्ली पंचाट (संदर्भ संख्या 35/2020) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 26.11.2024 को प्राप्त हुआ था।

[सं. एल – 42025-07-2024-210-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 26th November, 2024

S.O. 2281.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 35/2020) of the **Central Government Industrial Tribunal cum Labour Court –I New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Manager, National Institute of Science, Pusa Complex, Delhi; The Manager, Rajender Singh Security Agency, Mansarovar Garden, New Delhi, and Shri Ramesh, Worker, Through- The General Secretary, Rashtriya Rajdhani Shramik Sangh (Regd.), Najafgarh, New Delhi**, which was received along with soft copy of the award by the Central Government on 26.11.2024.

[No. L-42025-07-2024-210-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE
THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI NO.1
NEW DELHI.

DID. No. 35/2020

Sh. Ramesh S/o Sh. Ram Kishan,
 Through Sh. Ishwar Singh Mudgil, General Secretary,
 Rashtriya Rajdhani Shramik Sangh (Regd.),
 House No. 256, Pole No. 58,
 Village & Post Office Kair, Najafgarh,
 New Delhi-110043.

.....Workman

Versus

1. Manager,
 National Institute of Science,
 Dr. K.S. Krishna Marg, Pusa Complex,
 Delhi-110012.
2. Manager,
 Rajender Singh Security Agency,
 W.Z.-30, First Floor, Mansarover Garden,
 New Delhi-110015.

.....Management

AWARD

1. This is an application under Section 2-A of the I.D. Act whereby, the applicant made prayer that his termination from the service on 16.05.2019 by the management which he declared illegal and unjustified and he be reinstated with full back wages. He has not been provided any legal facilities. When the workman went to join his job he was illegally terminated from his service on 16.05.2019 without any rhyme or reason and without conducting any domestic enquiry by the management. He has initiated the conciliation proceeding but, no result. Hence, he had filed the present claim petition.

2. Management no.1 appeared and filed the rebuttal written statement. But, none appeared on behalf of the management no.2 nor filed their written statement. Thereafter, none appeared on behalf of the claimant nor his A/R appeared despite providing a number of opportunities, claimant has not appeared to substantiate his claim.

3. Hence, in these circumstances this tribunal has no option except to pass the no dispute award. No dispute award is passed accordingly. File is consigned to the record room. A copy of this award is hereby sent to the appropriate government for notification under section 17 of the I.D. Act, 1947.

Let a copy of this Award be sent for publication as required under Section 17 of Act.

Justice VIKAS KUNVAR SRIVASTAVA, Presiding Officer

Date: 07.11.2024

नई दिल्ली, 23 दिसम्बर, 2024

का.आ. 2282.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में दलित; l j d k j v k | k f x d v f / k d j . k— सह — Je l l ; k ; k y ; , आसनसोल के पंचाट (सन्दर्भ संख्या 60/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22@12@2024 को प्राप्त हुआ था।

[सं. एल – 22012/48/-2007-आईआर (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 23rd December, 2024

S.O. 2282.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference. I.D. No. 60/2007**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **22/12/2024**.

[No. L-22012/48/2007 –IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 60 OF 2007

PARTIES: Nand Kishore Singh.
Vs.
Management of Bansra Colliery of ECL.

REPRESENTATIVES:

For the Union/Workman: Mr. H. L. Soni, Asst. Gen. Secy., Koyla Mazdoor Congress
For the Management of ECL: Mr. P. K. Das, Advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 28.10.2024

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/48/2007-IR(CM-II)** dated 19.07.2007 has been pleased to refer the following dispute between the employer, that is the Management of Bansra Colliery under Kunustoria Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“ Whether the action of the management of Bansra Colliery of M/s. ECL in dismissing the services of Shri Nand Kishore Singh w.e.f. 27.10.2006 is legal and justified? If not, to what relief is the workman entitled? ”

1. On receiving Order **No. L-22012/48/2007-IR(CM-II)** dated 19.07.2007 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 60 of 2007** was registered on 31.07.2007 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.
2. Mr. H. L. Soni, Assistant General Secretary, Koyla Mazdoor Congress filed written statement on behalf of the dismissed workman on 09.12.2009. Management contested the Industrial Dispute by filing their written statement on 27.01.2015. Brief fact of the case as per written statement of the union is that Nand Kishore Singh a permanent employee of Bansra Colliery was posted as Haulage Khalashi. A Charge Sheet bearing Ref. No. ECL/BC/Per/03-04/1422 dated 08.07.2003 was issued against him for his absence from duty for the period from 26.05.2003 till 08.07.2003. The workman replied to the Charge Sheet along with his medical papers in support of his absence from 25.04.2003 to 22.07.2003 and disclosed that he was suffering from illness which was beyond his control. No enquiry was held in respect of the Charge Sheet. After lapse of three years the management issued another Charge Sheet bearing Ref. No. ECL/B/Per/06-07/931 dated 16/17.06.2006 levelling charge of misconduct for his unauthorized absence from 26.05.2003 till 17.06.2006 and habitual absenteeism. The workman submitted his reply but the management initiated a domestic enquiry proceeding against him on the basis of Charge Sheet dated 16/17.06.2006. Nand Kishore Singh, in his reply submitted his treatment papers, contending that there was no question of issuing a second Charge Sheet over his absence for the period from 26.05.2003. Nand Kishore Singh participated in the enquiry proceeding, arising out of the second Charge Sheet and he was dismissed from service by Order bearing Ref. No. A.KNT/P&IR/26(B)/3828 dated 25/27.10.2006, issued by the General Manager of Kunustoria Area. It is the

case of the union that the question of issuing a second Charge Sheet does not arise in the instant case and the management has committed illegality by not conducting any Domestic Enquiry after issuance of first Charge Sheet bearing Ref No. ECL/BC/Per/03-04/1422 dated 08.07.2003. It is urged that extreme punishment of dismissal issued against the workman is disproportionate to the charge, specially when the workman was suffering from illness.

3. Management in their written statement disclosed that Charge Sheet bearing Ref. No. ECL/B/Per/06-07/931 dated 16/17.06.2006 was issued to the workman under Clause 26.23 and 26.29 of the Certified Standing Order for unauthorized absence of the workman from 26.05.2003 to 17.06.2006, for a period over three years. The workman failed to submit any satisfactory reply to the Charge Sheet, as such a Domestic Enquiry was initiated. The Enquiry Officer issued a Notice of enquiry and provided reasonable opportunity to the workman to defend his case. The enquiry was held following the principles of natural justice and the workman was found guilty of charge framed against him. It is further case of the management that due to habitual absence in the preceding three years from 2000 to 2002, the workman was subjected punishment. He did not improve his attendance and the management after careful consideration of charge, Enquiry Proceeding, Enquiry Report and other relevant documents found no extenuating circumstance and dismissed the workman from his service. It is the case of the management that the order of dismissal is fully justified and the workman is not entitled to any relief.

4. The specific case for consideration before the Tribunal is whether the action of the management of Bansra Colliery in dismissing Nand Kishore Singh from his service w.e.f. 27.10.2006 is legal and justified. If not, what relief the workman is entitled to.

5. Nand Kishore Singh filed an affidavit-in-chief in support of his case. The main submission of the workman is that after issuance of the first Charge Sheet dated 08.07.2003 no Domestic Enquiry was held and he waited for the same. After lapse of three years a second Charge Sheet bearing Ref. No. ECL/B/Per/06-07/931 dated 16/17.06.2006 was issued for his absence from duty from 26.05.2003 till date of issuance of the Charge Sheet. He received Notice of enquiry dated 04.07.2006, calling upon him for appearance in the enquiry proceeding on 25.07.2006. He further stated that the enquiry was held in respect of Charge Sheet 16/17.06.2006, where it was found that he was absent from duty from 26.05.2003 to 17.06.2006. He admitted his participation in the enquiry proceeding arising out of the second Charge Sheet and his dismissal from service by letter dated 25/27.10.2006, issued by the General Manager, Kunustoria Area. The dismissed workman in his affidavit-in-chief stated that the management committed a lapse by not conducting any Domestic Enquiry on the basis of the first Charge Sheet bearing Ref. No. ECL/BC/Per/03-04/1422 dated 08.07.2003 and that the extreme punishment of dismissal is disproportionate to the nature of alleged misconduct, which was beyond his control. Nand Kishore Singh claimed that he should be reinstated in service and back wages should be paid to him with other consequential benefits from the date of dismissal.

6. In his cross-examination the workman stated that he had sent verbal information to the management about his illness and no written communication was made. The witness denied that he had intentionally absented from duty and that the order of dismissal was justified. No document has been produced by the workman or the union before this Tribunal.

7. Mr. Ayan Chatterjee, has been examined as Management Witness – 1. He filed an affidavit-in-chief, where he has stated that he is posted as Assistant Manager (Personnel) at Bansra Colliery. The witness stated that the ex-workman was chargesheeted by the management for unauthorized absence from duty from 26.05.2003 to 17.06.2006 vide Charge Sheet dated 16/17.06.2006. The workman submitted his reply on 01.08.2006, which was not found satisfactory and a Domestic Enquiry was initiated. The concerned workman participated in the enquiry proceeding and reasonable opportunity was provided to him to defend his case. The principles of natural justice were followed. The Enquiry Report has been submitted, finding him guilty of the charge. A second Show Cause Notice was issued on 09.09.2006. The Disciplinary Authority i.e., the General Manager, Kunustoria Area after considering relevant materials dismissed the workman for his long and habitual absence. Management produced the following document in support of their case :

- (i) Copy of the Charge Sheet dated 16/17.06.2006 is produced as Exhibit M-1.
- (ii) Copy of the Reply of Nand Kishore Singh dated 01.08.2006 to the Charge Sheet, as Exhibit M-2.
- (iii) Copy of the Notice of enquiry dated 04.07.2006, whereby Mr. T. N. Mitra was appointed as Enquiry Officer, as Exhibit M-3.
- (iv) Copy of the Notice of enquiry dated 04.07.2006 and 26.07.2006 issued by the Enquiry Officer addressed to Nand Kishore Singh, as Exhibit M-4 and M-4/1.
- (v) Copy of the Enquiry Proceeding, in six pages, including findings of the Enquiry Officer, as Exhibit M-5.
- (vi) Copy of the second Show Cause Notice dated 09/10.09.2006, as Exhibit M-6.
- (vii) Copy of the Reply dated 09.10.2006 submitted against the second Show Cause Notice, as Exhibit M-7.
- (viii) Copy of the letter of dismissal dated 25/27.10.2006, as Exhibit M-8.
- (ix) Copy of the Charge Sheet bearing Ref. No. ECL/BC/Per/03-04/1422 dated 08.07.2003 has been marked as Exhibit W-1, on admission.

8. In course of cross-examination the management witness stated that no enquiry proceeding was initiated in respect of the earlier Charge Sheet and all relevant documents including reply to second Show Cause Notice were considered by the General Manager before passing the order of dismissal. The witness stated that the workman absented for three years and medical papers were submitted for a short period from 24.05.2003 to 24.07.2003.

9. Mr. H. L. Soni, Union representative advancing his argument submitted that initially a Charge Sheet bearing Ref. No. ECL/BC/Per/03-04/1422 dated 08.07.2003 (Exhibit W-1) was issued to the workman for his unauthorized absence from duty for the period from 26.05.2003 till the issuance of Charge Sheet and he was directed to submit his explanation within three days. It is argued that the workman was suffering from jaundice and he submitted his medical papers, which clearly stated that he was under medical treatment from 26.05.2003 to 22.07.2003. The management did not take any action against the workman and subsequently a second Charge Sheet was issued on 17.06.2006, alleging unauthorized absence from duty from 26.05.2003 till 17.06.2006 i.e., date of issuance of the Charge Sheet and also for habitual absence. It is argued that the second Charge Sheet (Exhibit M-1) is not sustainable under law, as it is in respect of the charge of unauthorized absence, partly for the same period from 26.05.2003 till 08.07.2003. It is inter-alia argued that a person cannot be tried twice for the same misconduct. It is further argued that had the management been dissatisfied with his reason for absence for the period from 26.05.2003 till 08.07.2003, which was specified in Exhibit W-1, it was open for the management to initiate a Domestic Enquiry against the workman for such absence but once no action was taken for the notified period, the management of ECL did not have the jurisdiction to issue a second Charge Sheet for the same period of absence or even for part of the same period. Referring to the Charge Sheet dated 17.06.2006 it is argued that though the charge under Clause 26.23 of the Certified Standing Orders has been mentioned regarding habitual absence from duty without sufficient case, particulars about such charge have not been mentioned. The union representative contended that the enquiry proceeding based upon the second Charge Sheet is illegal and the order of dismissal passed by the Disciplinary Authority is not sustainable under law. It is urged that the workman was unable to attend his duty due to his illness and he is entitled to be reinstated in service with a direction to the management for payment of his Back wages.

10. Mr. P. K. Das, learned advocate for ECL argued that the workman had continuously remained absent from 26.05.2003 till 17.06.2006. He has submitted a medical certificate, issued by a private doctor for the period from 24.05.2003 to 22.07.2003 but he did not inform the Competent Authority about his illness and absence from his duty and also failed to submit any documentary evidence regarding his absence till 17.06.2006. It is argued that the workman has continuously absented from duty without any prior intimation, affecting the work of the management. It is further submitted that after the workman was found guilty a second Show Cause Notice along with a copy of Enquiry Proceeding was served upon him. The workman replied to the second Show Cause Notice dated 09/10.09.2006 which was considered by the Disciplinary Authority and exercising his jurisdiction issued the order of dismissal which has been produced as Exhibit M-8. Learned advocate submitted that the charge levelled against the workman in the second Charge Sheet (Exhibit M-1) travelled beyond the period of absence mentioned in the first Charge Sheet (Exhibit W-1). Therefore, the management did not commit any error by holding the enquiry proceeding on the basis of second Charge Sheet. In the Enquiry Proceeding along with findings, produced as (Exhibit M-5), the Enquiry Officer has reached a finding that as per documentary evidence Nand Kishore Singh submitted Medical Certificate of a private doctor for the period from 24.05.2003 to 22.07.2003 but he failed to submit any document from 23.07.2003 till the date of issuance of Charge Sheet. The workman had taken a plea that he was undergoing herbal treatment at his home but could not adduce any evidence in support of the same. Learned advocate submitted that the charge against the workman was proved and the order of dismissal does not call for any interference.

11. I have considered the facts and circumstances of the case and the arguments advanced on behalf of the contending parties in the light of Industrial Dispute referred to his Tribunal. On a perusal of the pleadings of the parties it is gathered that no Departmental Enquiry was initiated for the absence of the workman from 26.05.2003 till 08.07.2003. Undisputedly the absence continued without further intimation, resulting in issuance of another Charge Sheet bearing Ref. No. ECL/B/Per/06-07/931 dated 16/17.06.2006. The charge was in two folds, one on the allegation of habitual absence and the other for unauthorized absence from duty from 26.05.2003 till date. The workman submitted his reply (Exhibit M-2), wherein for the first time he informed the management the reason of his absence for the period from 26.05.2003 to 22.07.2003 trying to justifying his absence on the ground of illness and submitted medical certificate issued by Dr. J. B. Barat. The workman did not join his duty on any earlier occasion prior to issuance of second Charge Sheet dated 16/17.06.2006. The workman claimed that he could not attend his duty because he was suffering from same disease and was under treatment of Indian Home herbal medicine. If for argument's sake the statement of the workman in his reply is accepted to be true that he continued to suffer from same disease, he would not have obtained the certificate from the doctor only his medical treatment for the period from 26.05.2003 to 22.07.2003, declaring him fit to join his duty. The workman failed to substantiate the reason of his continuous absence beyond 22.07.2003. The management not finding the statement satisfactory was fully authorized to initiate a Domestic Enquiry against the workman. After appointing Enquiry Officer (Exhibit M-3) and issuing Notice of enquiry (Exhibit M-4 and M-4/1), the workman participated in the enquiry proceeding, wherein he was found guilty of charge for his absence, specially for the period from 23.07.2003 till the dated of Charge Sheet i.e., 17.06.2006. In respect of the charge under Clause 26.23, which is related to habitual absence, no evidence has been led by the management regarding absence of the workman in the three preceding years up to 2003. The Enquiry

Officer on the basis of statement of management representative has found that three increments of the workman were deducted in the year 1997, another three increments were deducted in the year 1998, from where it was concluded that the workman is not interested in discharging his duty regularly and he was a habitual absentee. This statement does not have any relevance to the charge, as the reason for deduction of increments have not been clearly stated by the management representative. Be that as it may, it is well establishment that the charged employee was held guilty of unauthorized absence from duty for a long period of over three years. He failed to justify his absence from duty for the period from 23.07.2003 till 17.06.2006 i.e., for nearly three years. After holding the workman guilty of the charge, a second Show Cause Notice was issued to him and the reply submitted by the charged employee on 09.10.2006 was considered by the Disciplinary Authority, who having found no extenuating circumstance in favour of the workman issued a letter of dismissal to Nand Kishore Singh dated 25/27.10.2006, dismissing him from service with immediate effect. Having considered the evidence on record, I do not find any infirmity in the Enquiry Proceeding. The workman was provided with reasonable opportunity to represent his case. The Enquiry Officer has followed the principles of natural justice during enquiry and found that the charged employee failed to garner evidence justifying his absence for the period from 23.07.2006 to 17.06.2006. Discipline is an integral part of service by a person. Lack of discipline disrupts the purpose and smooth functioning of any establishment. In the instant case, I find no infirmity in the decision of the management dismissing Nand Kishore Singh from service and the order calls no interference. The Industrial Dispute raised by the union, challenging dismissal of the workman is devoid of merit and the same is dismissed on contest. The aggrieved workman is not entitled to any relief of consequential benefit.

Hence,

ORDERED

that the Industrial Dispute raised by the union against dismissal of the workman from service is dismissed on contest. An award be drawn up in light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2024

का.आ. 2283.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में *दिल्ली, 1 जून 2024* - सह - *Je U; k; ky;*, आसनसोल के पंचाट (सन्दर्भ संख्या 11/2022) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22@12@2024 को प्राप्त हुआ था।

[सं. एल - 22012/36/-2022-आईआर (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 23rd December, 2024

S.O. 2283.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference. I.D. No. 11/2022**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **22/12/2024**.

[No. L-22012/36/2022 -IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXUER

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 11 OF 2022

PARTIES: Tarun Kanti Ghosh

Vs.

Management of Bansra Colliery of ECL and Another

REPRESENTATIVES:

For the Union/Workman: Mr. Chandi Banerjee, General Secretary, CMU (INTUC).

For the Management of ECL: Mr. P. K. Das, Advocate.

INDUSTRY: COAL.

STATE: West Bengal.

Dated: 08.10.2024.

AWARD

In exercise of powers conferred under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/36/2022-IR(CM-II)** dated 25.04.2022 has been pleased to refer the following dispute between the employer, that is the Management of Bansra Colliery under Kunustoria Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“ Whether the demand raised by Colliery Mazdoor Union (INTUC) against the Management of M/s. Eastern Coalfields Ltd. In relation to its Bansra Colliery (under Kunustoria Area) for payment of arrear wages in respect of Sundays and Holidays to Shri T.K. Ghosh, Foreman Incharge, UM No. 033186, of Bansra Colliery on his reversion from Executive Cadre vide order dated 18/10/2013, is legal and justified? If yes, what relief Shri T.K. Ghosh is entitled to? ”

1. On receiving Order **No. L-22012/36/2022-IR(CM-II)** dated 25.04.2022 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 11 of 2022** was registered on 26.04.2022 / 01.07.2022 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and list of witnesses.
2. Mr. P. K. Das, learned advocate for the management of Eastern Coalfields Limited and Mr. Chandi Banerjee, union representative are found present on call. For ends of justice the case is fixed up today for further evidence of workman witness. On a perusal of record, I find that Tarun Kanti Ghosh, aggrieved workman was examined in part on 14.11.2023 and thereafter on 15.01.2024. However, the workman has not put his signature on evidence recorded on 15.01.2024 which is lying in record. Cross-examination is not complete. Hence, no evidentiary value can be attached to his incomplete statements.
3. Mr. Chandi Banerjee, Union representative filed a petition stating that T. K. Ghosh retired from the post of Foreman Incharge at Bansra Colliery and raised this Industrial Dispute before the Tribunal on account of non-payment of difference of wage on his reversion from E-1 Grade to A-1 Grade. It is further stated that Mr. T. K. Ghosh has expired and the case may be discontinued. Copy of application is served upon Mr. P. K. Das and the same is kept with the record.
4. This Reference case was registered on 01.07.2022 and both parties filed their written statements. Mr. T. K. Ghosh filed his affidavit-in-chief on 14.11.2023 and was examined in part. On earlier date i.e., on 07.06.2024 no step was taken on behalf of the workman. Today Mr. Chandi Banerjee informed this Tribunal that workman has expired and his family does not want to proceed further with this case. In such view of matter no purpose would be served by proceeding any further as evidence of workman witness is incomplete. The Industrial Dispute is disposed of without going into merit for non-prosecution by legal heirs of the deceased workman. Petition filed by the union representative is accordingly disposed of. Let a No Dispute Award be drawn up.

Hence,

ORDERED

that a No Dispute Award be drawn up in the above Reference case. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2024

का.आ. 2284.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबंध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में दलित; l j d k j v k s k f x d v f / k d j . k - सह - Je U; k; ky; , आसनसोल के पंचाट (सन्दर्भ संख्या 36/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22@12@2024 को प्राप्त हुआ था।

[सं. एल - 22012/213-2005-आईआर (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 23rd December, 2024

S.O. 2284.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference.I.D.No.36/2006**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **22/12/2024**.

[No. L-22012/213/2005 –IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 36 OF 2006

PARTIES: Sudhir Majhi (Kisku)
(represented by the dependant wife)

Vs.

Management of Madhusudanpur Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: Mrs. Puspita Roy, Advocate.

For the Management of ECL: Mr. P. K. Das, Advocate.

INDUSTRY: Coal

STATE: West Bengal.

Dated: 25.10.2024

AWARD

In exercise of powers conferred under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/213/2005-IR(CM-II)** dated 01.08.2006 has been pleased to refer the following dispute between the employer, that is the Management of Madhusudanpur Colliery under Kajora Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“ Whether the action of the management of Madhusudanpur Colliery under Kajora Area of M/s. Eastern Coalfields Limited in dismissing Sh. Sudhir Majhi, U.G. Loader from service vide letter dated 2.9.2003 is legal and justified? If not, to what relief is the workman entitled? ”

1. On receiving Order **No. L-22012/213/2005-IR(CM-II)** dated 01.08.2006 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 36 of 2006** was registered on 14.08.2006 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Mr. P. K. Das, learned advocate for the management of Madhusudanpur Colliery of Eastern Coalfields Limited is present. The case is fixed up today for hearing of argument.

3. After eighteen years on the date of hearing of argument, Smt. Bimali Kisku, wife of Sudhir Majhi (Kisku), Ex-Underground Loader (U.M. No. 120528) at Madhusudanpur Colliery has filed an application before the Tribunal, stating that Sudhir Majhi has expired on 24.08.2011 and the legal heirs of the workman, for personal reasons do not want to proceed further and want to withdraw this case, pending before the Tribunal. It is prayed that a No Dispute Award may be passed. Copy served upon Mr. P. K. Das, learned advocate for the management.

4. Considered the contents of the petition. It appears from the Schedule that workman was dismissed from service on 02.09.2003. More than twenty-one years have passed and in the meantime, the dismissed workman has expired. No purpose would be served by proceeding with this case any further. Therefore, the Industrial Dispute is disposed of for non-prosecution. The management of Eastern Coalfields Limited is directed to make payment of the pending legal dues of Sudhir Majhi (Kisku) to his legal heir within one month from the date of communication of the Award.

Petition filed by Bimali Kisku is disposed of. Let a No Dispute Award be drawn up.

Hence,

ORDERED

that a No Dispute Award be drawn up in the above Reference case. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 23 दिसम्बर, 2024

का.आ. 2285.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में *दलित; 1 j dkj vks| kfxd vf/kdj.k* - सह - *Je ll; k; ky;*, आसनसोल के पंचाट (सन्दर्भ संख्या 02/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22@12@2024 को प्राप्त हुआ था।

[सं. एल - 22012/119-2017-आईआर (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 23rd December, 2024

S.O. 2285.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference. I.D. No. 02/2018**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **22/12/2024**.

[No. L-22012/119/2017 –IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL

PRESENT: Shri Ananda Kumar Mukherjee,

Presiding Officer,

C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 02 OF 2018

PARTIES:

Gyan Bai

(Daughter of Late Shyam Bai)

Vs.

Management of Naba Kajora Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: Mr. Basudeb Choudhury, Learned Advocate

For the Management of ECL: Mr. P.K. Das, Learned Advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 21.10.2024

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/119/2017-IR(CM-II)** dated 22.12.2017 has been pleased to refer the following dispute between the employer, that is the Management of Naba Kajora Colliery under Kajora Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“ Whether the action of the management of Nabakajora Colliery, Kajora Area, M/s. E.C.Ltd. in denial of employment of Gyan Bai D/O Late Shyam Bai, ex-employee on compassionate ground is correct?. If not, what relief the workman is entitled to.”

1. On receiving Order **No. L-22012/119/2017-IR(CM-II)** dated 22.12.2017 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 02 of 2018** was registered on

09.01.2018 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. After registration of the case, Shri C.B. Mishra, General Secretary of the United Koila Mazdoor Sangh initially filed a written statement on behalf of Gyan Bai, daughter of deceased Shyam Bai on 16.12.2022. The Agent, Naba Jambad Project, Kajora Area filed a written statement on behalf of management on the same date. The facts of the case disclosed in the written statement of the union is that Shyam Bai was a permanent employee of Naba Kajora Colliery under Kajora Area of ECL. She was a Wagon Loader and died in harness on 02.04.1985. Gyan Bai, her daughter applied for employment on compassionate ground as per provisions under National Coal Wage Agreement (NCWA). After receipt of the application, the management of ECL remained silent and did not provide any employment to the dependent of the deceased employee. Mr. C.B. Mishra, General Secretary of the union requested the management to consider the case of Gyan Bai and on 16.11.1995 a discussion took place between the union and the management where it was assured that the application would be processed. On 11.08.2009 the union representatives held a discussion in the chamber of G.M. (P&R) at the Headquarters of ECL at Sanctoria and it was assured that the prayer for employment would be processed although it was a belated case and the management had already regretted the proposal for employment in November 1997. An Industrial Dispute was raised before ALC(C), Raniganj-Durgapur in the year 2012 over the issue of denial of employment to the dependent of workman. The conciliation proceeding before the ALC(C), Raniganj-Durgapur failed on 22.12.2017. The Central Government thereafter referred this Industrial Dispute to this Tribunal for adjudication. It is the contended that the claim for employment of Gyan Bai is valid as per existing rules.

3. Management contested the Industrial Dispute by filing their written statement wherein it is contended that compassionate employment is provided to dependent of employee for the purpose of overcoming the sudden financial crisis arising out of loss of the sole bread earner and it is not a vested right of the dependents. It is inter alia asserted that the employee died in the year 1985 and the Industrial Dispute has been raised in 2012 after a span of 27 years due to lack of seriousness on the part of the petitioner. It is further contended that the written statement filed on behalf of the dependent does not disclose the date of death of the workman and the date when the daughter claimed for employment. According to the management the name of the dependent was not recorded in the service record of deceased employee and she failed to produce any document before the management in support of her relationship with the deceased employee.

4. It is further asserted that the bonafideness of claim for employment was doubtful and the same was rejected by the management as the application for employment was made 12 years after the death of ex-employee. Further case of management is that the application submitted by the petitioner would reveal that her father Kartick Das was an employee under ECL at the relevant time and she was dependent on her father having no financial hardship. Management refuted the claim of the petitioner that she was the dependent of her mother at the time of her death. The management has taken a plea that the instant case is not an Industrial Dispute as there is no employer-employee relationship between management and claimant. It is claimed that the instant reference case is liable to be dismissed and in support of their case, management relied upon a decision of Hon'ble Supreme Court in **M/s. Eastern Coalfields Limited Vs. Anil Badyakar and Ors.** (Civil Appeal No. 3597 of 2009), where it has been held that "*compassionate appointment is not a vested right which can be exercised at any time in future. The compassionate employment cannot be claimed and offered after a lapse of time and after the crisis is over*". Reliance is also placed upon a decision of the Hon'ble High Court at Calcutta in the case of **Nunibala Mondal @ Nuni Mondal & Ors. vs. Eastern Coalfields Ltd & Ors.** (W.P. 1660 (W) of 2016) where it is observed that "*It is now judicially recognized that a delay of more than five or six years is fatal to a matter pertaining to compassionate appointment*". Management has also rested their case on the obiter dictum of another decision of Hon'ble High Court at Calcutta in the case of **State of West Bengal & Ors. Vs. Purnam Pradhan** (M.A.T. No. 1036 of 2011) where it was held that "*compassionate appointment should not be offered after lapse of reasonable period, to say five years*".

5. The moot point for consideration before this Tribunal is whether the denial of the claim for employment to Gyan Bai, daughter of Late Shyam Bai on compassionate ground by the management of Naba Kajora Colliery is justified and correct?

6. Mr. Basudeb Choudhury, learned advocate representing the union examined Gyan Bai as Workman Witness-1 (WW-1). She has filed an affidavit-in-chief where she has reiterated the case disclosed in the written statement of the union and averred that after death of her mother, she made several representations before the management for considering her case for employment. She stated that her mother died on 02.04.1985 and Service Record Excerpt were issued in the month of April 1987, as such there was no scope for her to be declared as the dependent of her mother in the service record. She denied the contents of paragraph (4) of the written statement of the management where it was stated that the name of the petitioner was neither recorded in the service record of Shyam Bai as dependent nor did she produce any convincing and tangible evidence in support of her claim. She denied that the application for employment was made for the first time 12 years after the death of Shyam Bai. In her examination-in-chief, Gyan Bai deposed that her mother died before her marriage and she got married 12 years prior to the date of her adducing evidence.

She further stated that as the company did not provide her any employment, she raised an Industrial Dispute through the union. In course of her evidence the witness produced the following documents:

- (i) Copy of the Death Registration Certificate of Shyam Bai which is produced as Exhibit W-1.
- (ii) Copy of Aadhar Card of Gyan Bai is marked as Exhibit W-2.
- (iii) Copy of the minutes of meeting held on 16.11.1995 is marked as Exhibit W-3.
- (iv) Copy of the minutes of meeting held on 11.08.2009 is marked as Exhibit W-4.

In her cross-examination, she claimed to have submitted her application for employment immediately after the death of her mother but she failed to produce any document. The witness admitted that she was unable to produce a copy of her application claiming employment before the company. It is gathered from her cross-examination that she raised Industrial Dispute after death of her mother and from the written statement it appears that the Industrial Dispute was raised before ALC(C), Raniganj at Durgapur in the year 2012 i.e. 27 years after the death of her mother. Suggestion was put to the witness that she was not a dependent of her mother or that her name was not recorded in service record of her mother which she denied. It is strange to find that the witness could not state the name of her father. On being specifically questioned about Kartick Das, she was unable to state if Kartick Das was her father or his name was recorded as husband of Shyam Bai in her service record.

7. Management examined Shri Ramjee Tripathy, Assistant Manager (Personnel) at Naba Kajora Colliery as Management Witness-1 (MW-1). In his affidavit-in-chief, the witness stated that compassionate employment is provided to dependent of employee to tide over financial crisis due to sudden loss of the bread earner. In the instant case, the workman died in 1985, the Industrial Dispute is raised in 2012, after 27 years and there was no seriousness on the part of union or workman. It is further stated the management regretted the case of the petitioner in 1997. Regarding the minutes of meeting referred by the union dated 16.11.1995 and 11.08.2009, it is stated that the minutes of the meeting can't be considered as a settlement between the parties and the management did not make any commitment in the matter of providing employment. The specific case of the management is that the name of claimant is not recorded as dependent in the service record of the deceased employee and as the claim has been made after inordinate delay, the claimant is not entitled to any relief. In course of his evidence, management witness produced a copy of application submitted by Gyan Bai claiming employment as Exhibit M-1. In cross-examination, the witness denied that the management committed any illegality by not providing employment to Gyan Bai.

8. Basudeb Choudhury, learned advocate appearing for the union argued that Gyan Bai being the dependent daughter of deceased employee had submitted an application for her employment immediately after death of her mother but management in order to frustrate her case did not process her application. It is argued that valuable time has been wasted due to procrastination of the management. It is contended that according to the provisions of NCWA, a dependent family member of deceased employee is entitled to get employment but in the instant case, the management has violated the clear terms of NCWA applicable to it. In reply, Mr. P.K. Das, learned advocate for the management argued that the present case is not tenable as Gyan Bai has failed to produce any document to show that she is the daughter of Shyam Bai. Referring to cross-examination of WW-1 it is submitted that the witness could not state the name of her father. She clearly stated that she did not know the name of her father. Therefore, Exhibit W-1, the death certificate of Shyam Bai bearing the name of Kartick Das as her husband is of no avail to Gyan Bai. It is submitted that even if for argument sake it is assumed that Shyam Bai is the mother of Gyan Bai, it needs to be considered that application for employment was submitted for the first time on 18.02.1997 i.e. 12 years after the death of her mother. In the application it is stated that Kartick Das, the father of Kumari Gyan Bai was a workman under Madhabpur Colliery. It is also stated that for such reasons, he was unable to claim any employment against the death of his wife Shyam Bai. The petition sought for employment on the ground that father was unable to maintain her from his sole earning for which she was in need for some employment. Learned advocate referred to the copy of application produced by management witness as Exhibit M-1, which has not been controverted nor objected to on behalf of union/dependent of workman. Learned advocate argued that right to compassionate employment cannot be treated as a vested right and claim cannot be raised after a long period as the purpose of compassionate employment is to provide assistance to dependents of deceased employee to overcome financial crisis which may arise due to death of the sole bread earner. Learned advocate argued that the Industrial Dispute which has been raised after 27 years from the year of death of Shyam Bai does not have any merit and it is liable to be dismissed.

9. The Management has raised a vital question that this reference case does not involve any Industrial Dispute due to want of employer and employee relation between the claimant Gyan Bai and the management of ECL. Since this issue strikes at the root of this case under the Industrial Disputes Act, 1947, the issue needs to be addressed at the outset. It is undisputed that the petitioner is claiming employment as a dependant of Shyam Bai, ex employee, according to the provision of clause 9.4.3 of NCWA which the management of ECL has denied. One of the Trade unions has raised the Industrial Dispute on the ground that the variance has cropped up in connection with terms of employment which provides for employment to dependent of the deceased employee. Besides, in the case of **Shambhu Nath Goyal Vs. Bank of Baroda**; (1978) 2 SCC 353, the Hon'ble Supreme Court observed that when once a dispute is referred for adjudication the presumption is that it is an Industrial Dispute. Taking such facts into

consideration, I hold that the the dispute raised satisfies relevant conditions specified in the definition of Industrial Dispute in section 2(k) of the Industrial Dispute Act. The question is thus set at rest.

10. Having considered the material on record, facts and circumstances of the case and arguments advanced on behalf of the respective parties, it transpires from the affidavit-in-chief of Gyan Bai that she is 57 years of age at present and is married to Agar Das Mahant. There is no document on record to establish that Gyan Bai is the dependent daughter of Shyam Bai. No document has been submitted by the claimant to establish the relationship of Gyan Bai with the deceased. A copy of Death Registration certificate of Shyam Bai has been filed as Exhibit W-1 where her husband's name has been recorded as Kartick Das. In course of cross-examination, workman witness stated that she did not know the name of her father and went to the extent of stating that she did not know if Kartick Das was her father. In the written statement and affidavit-in-chief, the date of submitting the claim application has not been mentioned. The management witness after producing Exhibit M-1 deposed that Gyan Bai submitted an application for employment on 18.02.1997. The statement regarding date of application has neither been contradicted nor denied by learned advocate for the union. It is therefore presumed that for the first time application for employment was made on 18.02.1997 i.e. 12 years after date of death. The Industrial Dispute was raised in 2012 and reference has been made before this Tribunal in 2018. The Industrial Dispute therefore has been raised after 27 years and reference has been made after 33 years. The present age of claimant is between 57 to 58 years. There is no convincing evidence before this Tribunal that at the time of submitting application for employment Gyan Bai was a dependent daughter of deceased employee. It is a well settled law that compassionate employment is not a vested right which can be exercised any time in future. The Hon'ble Supreme Court has held in **M/s. Eastern Coalfields Limited Vs. Anil Badyakar and Ors.** (Civil Appeal No. 3597 of 2009) that "*compassionate appointment is not a vested right which can be exercised at any time in future. The compassionate employment cannot be claimed and offered after a lapse of time and after the crisis is over*". Gyan Bai is a married lady and there is no question of her being dependent on her mother. The claim for employment has lost its relevance with passage of time. In my considered view, the concerned union has raised this Industrial Dispute after inordinate delay, only to take a chance.

11. In the matter relating to Industrial Disputes, the settled position is that law of limitation does not apply. Nevertheless, the requirement to make the same within a reasonable time persists to maintain its relevance and a live relation between the need and the claim.. The Hon'ble Supreme Court in a catena of decisions has emphasized the need to raise Industrial Disputes within a reasonable time as laid down in the cases of (i) **Bichitrananda Behra Vs. State of Orissa**; AIR 2023 SC 5064, (ii) **Rajasthan State Road Transport Corporation and Ors. Vs. Sadhna Singh**; (2022) 5 SCC 634, (iii) **Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub-Division, Kota Vs. Mohan Lal**; (2013) 139 FLR 125 SC. In the **State of Karnataka and another Vs. Ravi Kumar**; (2009) 122 FLR 737 SC Hon'ble Supreme Court laid down that long delay in seeking reference of the dispute rendered the reference stale. It is held that it should have been rejected by the Labour Court. It also needs to be borne in mind that appointment on compassionate ground is an exception to the constitutional scheme of equality as laid down under Article 14 and 16 of the Constitution of India.

12. Considering the aforesaid principles of law, I am constrained to hold that the claim for employment made by Gyan Bai on the alleged death of her mother is not sustainable under law due to inordinate delay and the Industrial Dispute raised on her behalf suffers on account of long lapse of time and the same is liable to be rejected. The question of providing employment to the petitioner as a dependent of her mother when the claim was raised after 12 years of death has no relevance. The husband of Shyam Bai was in service at the time of her death and the family did not wade over any financial crisis for providing employment to the daughter. This Industrial Dispute therefore has no merit and the same is dismissed on contest.

Hence,

ORDERED

that the Industrial Dispute raised on behalf of Gyan Bai for compassionate employment on death of Shyam Bai is without merit and the same is dismissed on contest. An award be drawn up in light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 30 दिसम्बर, 2024

का.आ. 2286.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईशा प्रोटेक्शनल सिक्वोरिट्री गार्ड प्राइवेट लिमिटेड, के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में *दिल्ली, 1 जून 2024* - सह - *जे.एल.के.ए.*, जबलपुर के

पंचाट (एलसी-आर/34/2023) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16@12@2024 को प्राप्त हुआ था।

[सं. एल – 22013/01/-2024-आईआर (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 30th December, 2024

S.O. 2286.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference. LC/-R/34/2023**) of the **Central Government Industrial Tribunal-cum-Labour Court, Jabalpur** as shown in the Annexure, in the industrial dispute between the Management of **Isha Protectional Security Guard Pvt.Ltd**, and their workmen, received by the Central Government on **16/12/2024**.

[No. L-22013/01/2024 –IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

No. CGIT/LC/R/34/2023

Present: P. K. Srivastava

H.J.S..(Retd)

Shri Prakash Samundre,

Bhopal, (M.P.) - 462041

Workman

Versus

The Director,

A.I.I.M.S.,

Bhopal, (M.P.) - 462041

Management

AWARD

(Passed on this 23rd day of October-2024.)

Vide communication reference number RLC-8(12)/2020 dated 31/03/2023; by the Deputy Chief Labour Commissioner (Central) Jabalpur, Ministry of Labour, New Delhi this reference is sent to the Tribunal under section-10 of Industrial Disputes Act, 1947 (in short the 'Act') The dispute under reference related to :-

“ Whether the action of the management of M/s Isha Protectional Security Guard Pvt. Ltd. a contractor of All India Institute of Medical Science (AIIMS) Bhopal to terminate the service of Shri Prakash Samundre is legal and justified ? If not then what benefit the workman is entitled to ? ”

After registering the case on reference received, notices were sent to the parties and were duly served on them. Time was allotted to the workman to submit his statement of claim. In spite of the allotment of time and service of notice, the workman never turned up and submitted his statement of claim. Management filed its written statement of claim/ defence with affidavit and photo copy of documents. No evidence was ever produced by any of the parties in this Tribunal.

The Initial burden to prove his claim is on the workman. Since the workman did not file any pleading nor did he file any evidence, in the absence of any evidence in support of holding the claim of the workman not proved, the reference deserves to be answered against the workman and is answered accordingly.

AWARD

In the light of this factual backdrop, holding that the claim of the workman is not proved, the reference deserves to be answered against the Workman and is answered accordingly.

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 23/10/2024

नई दिल्ली, 30 दिसम्बर, 2024

का.आ. 2287.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीआईपीएल-बीपीएल संयुक्त उद्यम के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में *दिल्ली, 1 जून 2023 के फैसले के अनुसार* - सह - *जे.एल.के.के.*, जबलपुर के पंचाट (एलसी-आर/19/2023) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/12/2024 को प्राप्त हुआ था।

[सं. एल - 22012/19-2023-आईआर (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 30th December, 2024

S.O. 2287.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference. LC/-R/19/2023**) of the **Central Government Industrial Tribunal-cum-Labour Court, Jabalpur** as shown in the Annexure, in the industrial dispute between the Management of **BIPL-BPL Joint Venture**, and their workmen, received by the Central Government on **16/12/2024**.

[No. L-22012/19/2023 -IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR****No. CGIT/LC/R/19/2023****Present: P.K.Srivastava****H.J.S..(Retd)**

The Zonal Secretary,
Janata Mazdoor Sangh,
231, Ambedkar Nagar, Shakti Nagar,
Dist. Sonbhadra, (M.P.) - 231222

Workman**Versus**

The General Manager,
Amroli Project, NCL,
Post- Amroli, Dist. Singrauli,
(M.P.) - 486887

M/s BIPL - BPL Joint Venture,
Amroli Project, NCL,
Singrauli, Post- Amroli, Dist. Singrauli,
(M.P.) - 486890

Management**AWARD****(Passed on this 29th day of November-2024.)**

As per letter dated 21/02/2023 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this tribunal under section-10 of I.D. Act, 1947 as per reference number L-22012/19/2023-IR(CM-II) dt. 21/02/2023. The dispute under reference related to :-

“ क्या जोनल सचिव, जनता मजदूर संघ द्वारा मैसर्स बीआईपीएल - बीपीएल जॉइंट वेंचर, अमरोली परियोजना, एन सी एल, सिंगरौली एवं महा प्रबंधक, अमरोली परियोजना, एन सी एल, सिंगरौली से समाधान पोर्टल के माध्यम से ठेका श्रमिकों को सेवा के दौरान दी जाने वाली विभिन्न सुवधाओं के अंतर्गत राशि का भुगतान करने के सम्बन्ध में उठाई गई मांग का दावा न्यायोचित है? यदि हाँ, तो उक्त संघ के माध्यम से ठेका श्रमिक क्या अनुतोष पाने के अधिकारी है? ”

After registering the case on reference received, notices were sent to the parties and were duly served on them. Time was allotted to the workman to submit his statement of claim. In spite of the allotment of time and service of notice, the workman never turned up and submitted his statement of claim. Management also did not file its written statement of claim/ defence. No evidence was ever produced by any of the parties in this Tribunal.

The Initial burden to prove his claim is on the workman. Since the workman did not file any pleading nor did

he file any evidence, in the absence of any evidence in support of holding the claim of the workman not proved, the reference deserves to be answered against the workman and is answered accordingly.

AWARD

In the light of this factual backdrop, holding that the claim of the workman is not proved, the reference deserves to be answered against the Workman and is answered accordingly.

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 29/11/2024

नई दिल्ली, 30 दिसम्बर, 2024

का.आ. 2288.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन.सी.एल.के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में दलित; l jdkj vks| kfxd vf/kdj.k - सह - Je l; k; ky; , जबलपुर के पंचाट (एलसी-आर/49/2023) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16@12@2024 को प्राप्त हुआ था।

[सं. एल - 22013/01/-2024-आईआर (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 30th December, 2024

S.O. 2288.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference. LC/-R/49/2023**) of the **Central Government Industrial Tribunal-cum-Labour Court, Jabalpur** as shown in the Annexure, in the industrial dispute between the Management of N.C.L., and their workmen, received by the Central Government on **16/12/2024**

[No. L-22013/01/2024 –IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/49/2023

Present: P.K.Srivastava

H.J.S..(Retd)

The Sanjay Namdev,

Urjanchal Visthapit Kamgar Union,

Majan Mod Singrauli

(M.P.) - 486887

Workman

Versus

M/s ESS- JAY Engineers,

NCL Amlori Project,

Singrauli (M.P.)

Management

AWARD**(Passed on this 26th day of November-2024.)**

Vide communication reference number SH-1(68)/2021 by the Deputy Chief Labour Commissioner (Central) Jabalpur, Ministry of Labour, New Delhi this reference is sent to the Tribunal under section-10 of Industrial Disputes Act, 1947 (in short the 'Act') The dispute under reference related to :-

“ Whether the demand of the union Urjanchal Vishthapit Evam Kamgar Union Waidhan to reinstate the services of Shri Rambhuvan Shah, Rammilan Yadav, Govind Prasad Yadav, Ram lal Shah, Pappu lal Shah, Anmol Singh and Arvind Shah by the management of M/s ESS-JAY Engineers a contractor of NCL Amlohri is justified? If not what other benefits the workmen are entitled to ? ”

After registering the case on reference received, notices were sent to the parties and were duly served on them. Time was allotted to the workman to submit his statement of claim. In spite of the allotment of time and service of notice, the workman never turned up and submitted his statement of claim. Management also did not file its written statement of claim/ defence. No evidence was ever produced by any of the parties in this Tribunal.

The Initial burden to prove his claim is on the workman. Since the workman did not file any pleading nor did he file any evidence, in the absence of any evidence in support of holding the claim of the workman not proved, the reference deserves to be answered against the workman and is answered accordingly.

AWARD

In the light of this factual backdrop, holding that the claim of the workman is not proved, the reference deserves to be answered against the Workman and is answered accordingly.

Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

DATE: 26/11/2024

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2289.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रबंध निदेशक, मेसर्स यूआरएस स्कॉट विल्सन इंडिया (पी) लिमिटेड, सोलन; मेसर्स स्टर्लिंग इंडोटेक कंसल्टेंट्स प्राइवेट लिमिटेड, जयपुर, राजस्थान; परियोजना निदेशक, पीआईयू-शिमला, भारतीय राष्ट्रीय राजमार्ग प्राधिकरण (एनएचआई), चक्कर, शिमला, (हिमाचल प्रदेश), के प्रबंधन के संबद्ध नियोजकों और श्री मेहर चंद, कामगार, द्वारा -जे.सी. भारद्वाज अध्यक्ष (हि.प्र.) सोलन (हि.प्र.), के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय-1, चंडीगढ़, पंचाट (संदर्भ संख्या 17/2020) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 30.12.2024 को प्राप्त हुआ था।

[सं. एल – 42025-07-2024-226-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2289.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 17/2020) of the **Central Government Industrial Tribunal cum Labour Court-1, Chandigarh**, as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Managing Director, M/s URS Scott Wilson India (P) Ltd., Solan; M/s Sterling Indotech Consultants Pvt. Ltd, Jaipur, Rajasthan; The Project Director, PIU-Shimla, National Highways Authority of India (NHIA), Chakkar, Shimla, (H.P), and Shri Mehar Chand, Worker, Through-J.C. Bhardwaj President (H.P.) Solan (H.P.)**, which was received along with soft copy of the award by the Central Government on 30.12.2024.

[No. L-42025-07-2024-226-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Presiding Officer: Sh. Brajesh Kumar Gautam,

ID No.17/2020

Registered On:- 29.12.2020

Mehar Chand S/o Sh. Gulaba Ram, Village- Daon, P.O. Dhundan, The. Arki, District- Solan (HP) Through J.C. Bhardwaj President H.P. AITUC HQ- D-1 3rd Floor City Centre Plaza (Near District Courts) Solan H.P.

..... Petitioner/Workman

Versus

1. M/s URS Scott Wilson India (P) Ltd., C/o Dhyansingh Near Hotel Neelam Village- Bara, Post Office- Kumarhatti District Solan. Through its Managing Director.
2. M/s Sterling Indotech Consultants Pvt. Ltd HO 601 Sunny Mart New Aatish Market Jaipur 322019 Rajasthan.
3. The Project Director, PIU-Shimla, National Highways Authority of India (NHIA) House No-1 Rishikesh Sadan Shanti Kutiya Chakkar Shimla H.P. 171005.

.....Respondents

Counsels for the Parties:

Sh. Atul Bhardwaj AR for Workman

None for Respondents /Management (proceeded Ex-parte)

*Judgment reserved on 03rd December, 2024**Judgment/Award Pronounced on 13th December, 2024*JUDGMENT/AWARD

1. Present Petition is an Industrial Dispute filed directly under Section 2-A of the Industrial Disputes Act, 1947 (hereinafter called the I.D. Act) by the workman Sh. Mehar Chand, challenging his termination order dated- 17.06.2019 with a prayer to reinstate the workman with back wages.

2. **The case of Workman/Petitioner-** the brief facts of the case as is unfolded from the claim statement of the workman may be stated that respondent no. 1 & 2 are contractors and principal employer is respondent No. 3. The workman was appointed as Driver in September, 2016 with respondent No.1 and thereafter, he was enrolled with respondent No.2 and he continued and worked as such till his removal from service on 17.06.2019 without any cogent reason and justification. It is also stated that workman/ petitioner was drawing his salary @ Rs.10,220/- per month at the time of his termination. It is stated that petitioner worked satisfactorily during his service tenure and he was deemed to be confirmed on completion of one year as he was appointed on a permanent basis. The further case of petitioner workman has been that his termination is not a simpliciter one but stigmatic and there has been allegation of misusing and damaging company property which is evident from the order of termination. No enquiry in connection with any such allegation was ever held against the petitioner and termination order was passed in contravention of law. Neither one month salary nor one month prior notice was given to the workman before termination of his service. It is further stated by the petitioner workman that he was discharging his duties with utmost sincerity and honesty with full devotion but he has been terminated without giving any opportunity against allegation and it was in violation of principal of natural justice. Before his termination of service petitioner workman had completed more than 240 days of his service tenure within 12 Calendar Months for the purpose of Section 25-B of the I.D. Act and this way he was entitled to certain protection in the matter of employment. The respondents have followed unfair labour practices and acted on a formula 'hire and fire' and acted in arbitrary manner while terminating the petitioner workman without proof of charges levelled against him. The petitioner/workman had approached Deputy Chief Labour Commissioner, Central Kendriya Sadan, Sector 9-A, Chandigarh for re-conciliation of the matter but there had been no settlement there and a certificate for failed re-conciliation between the parties have been issued. No reference by the Central Govt. was made under section 10 of the I.D. Act and present claim petition has been filed raising an Industrial Dispute under Section 2-A of the Act.

3. **The case of Respondents/Management-** In response to the notices issued upon respondent No.1 to 3, it appears that only respondent No.2 appeared. Despite proper service of notices upon respondent No. No.1 & 3 they did not appear before the Court. It appears further that after filing reply to claim petition even respondent no. 2 also left taking steps in the present proceedings and vide order dated 30.08.2023 respondents no.1 to 3 were ordered to be proceeded *ex-parte*.

4. As per reply filed by the respondent No.2, the case of respondent no. 2 may be stated in brief that the petitioner was appointed on ad-hoc basis as a driver under contract of employment for a specific period of time. On expiry of this period his services were dispensed with. And this way the termination is valid in term of section 2 (oo), (bb) of Industrial Dispute Act, 1947. The act of management does not amount to violation of section 25 F, in view of section 2 (oo), (bb) of Industrial Dispute Act, 1947. It is also pleaded by respondent no. 2 that termination of employee on the ground of loss of confidence without an inquiry is well settled and that the employee is not entitled to reinstatement. According to respondent no. 2 departmental enquiry before dismissal of workman is not *sine qua non* in all cases. The respondent has admitted that applicant workman was in employment but he was yet to be confirmed by respondent no. 2 the job of petitioner was terminated because of his gross negligence. The job of driver was not a permanent nature job and was as on required basis. According to respondent before termination even warning letter dated 18.02.2019 was also issued for misbehaving and denial to follow instruction. It is stated that workman Mehar Chand had caused accident of car while driving in drunken state. In support of their case the respondent no. 2 has brought on record certain documents being Appointment Letter dated 17.09.2016, Warning Letter for disciplinary violation dated 18.02.2019, Copy of photographs of the car which allegedly met an accident and Statement of co-driver Harish Kumar.

5. **Issues:** On the basis of pleadings of the parties following issues have arisen to be adjudicated in the present industrial dispute case-

i **Whether termination of workman Mehar Chand from the service on 17.06.2019 is illegal?**

ii **Whether termination of workman is in violation of natural justice and without compliance of section 25 F of the I.D. Act, 1947 ?**

iii **Whether workman Mehar Chand is entitled for reinstatement with back wages and other consequential benefits?**

iv **What other relief if any in the facts and circumstances of the case?**

6. **Evidence of parties:** During hearing of the case the petitioner/workman got examined himself as a witness in support of his case and one document -termination letter dated 17-06-2019 has been brought on the record as Annexure- P-A. It may be noticed that the workman-witness has not been cross-examined by the respondents as they left their participation in the present proceedings even after due service of the notices upon them. Also no evidence has been adduced on behalf of respondents.

Findings

7. **Issues no. i.** Whether termination of workman Mehar chand from the service on 17.06.2019 is illegal?

ii. Whether termination of workman is in violation of natural justice and without compliance of section 25 F of the I.D. Act, 1947?

Above noted these two issues are inter connected hence are taken together. As per claim of the workman he was appointed and working as driver is an admitted fact and not denied in the reply/written statement filed by the respondent-2. The Appointment letter which has been brought on the record annexed with the written statement as R2/A shows that it has been issued on 19.09.2016 but the appointment to workman has been given retrospectively from 07.09.2016, meaning thereby the workman was already in employment before the issuance of the appointment letter. Workman has claimed that his appointment was on regular basis but as per the written statement of the respondent it was a contractual appointment for specific period. The appointment letter (R2/A) does not mention any such specific period for which appointment was given, rather it provides the manner of confirmation and also period of probation is stated therein before the workman can be confirmed. No document has been produced by the respondents to the effect that in fact the workman was appointed on contractual basis for a specific period. Thus the stand of respondents falsified from their own document- the appointment letter. So far as the confirmation of service is concerned it is provided in the appointment letter itself that probation period will be of six months, which may be extended for another six months and confirmation will be given in writing. The workman has not produced any such written confirmation of services but it is a fact that the workman worked till his termination on 17.06.2019. As per terms of the appointment letter if no confirmation is given in writing during extended probation period, the appointment will automatically stand cancelled. Here in the present case there is no case of automatic cancellation of appointment as the workman served with respondent no.2 even after lapse of probation period. Although no written confirmation letter has been given by the respondent but the nature of appointment and continuous work by the workman even after the probation/extended probation period, is an indication of the fact that the workman Mehar Chand was working in a regular capacity. Now the question arises if the workman is a regular employee, can he be dismissed by making imputation of certain allegation but without affording opportunity and holding any departmental inquiry? In this case it has been done.

8. The termination letter dated 17.06.2019 (Annexure-P-A to the evidence of workman) speaks about an allegation that workman had misused and damaged company property and was involved in unlawful activities on 16.06.2019. Thus this allegation in termination letter shows some unlawful act/misuse by workman and causing damage to the company property, just one day prior and if it was so, there appears that no opportunity was given to the workman before terminating his services. On the record the respondents have not brought on any document which may so as to which particular car number was allotted and being driven by the workman on the date of alleged car accident. So far as car accident is concerned, the respondent no.2 has filed statement of a colleague— Harish Kumar (R2/C) along with written statement/reply and in the said statement Harish Kumar has clearly stated that he, Mehar Chand and another to whom he does not know, took wine and thereafter they planned to return, but who was driving the car he was not aware. It further appears that the car which made an accident was official vehicle/car allotted to and driven by Harish Kumar. If one goes through the facts described in the statement of Harish Kumar it is clear that he himself along with Mehar Chand (the workman herein) had drunk wine and under influence of wine the vehicle made an accident but who was the driver at that particular time is not disclosed. Not only this, Harish Kumar falsely reported in the office that the car had been stolen. The nature of such statement and conduct shows that Harish Kumar himself was also involved in alleged accident and he concealed the true fact, but there is nothing on record to show as to what action was taken against said Harish Kumar. It appears that workman Mehar Chand has been made an scapegoat and discriminatory termination order has been passed for the incident in which another employee was also involved.

9. The workman in his affidavited evidence has clearly stated that his services with the respondent was continuous for the purpose of section 25B of the I.D. Act and he had already completed more than 240 days before his termination. Therefore he became entitled for certain protection under the I.D. Act. He has also deposed that neither any charge-sheet was served on him nor any departmental inquiry was held for the alleged charges for which he has been dismissed from the services. What has been deposed in the evidence by the workman remained uncontroverted without any rebuttal as neither the respondents cross-examined the workman nor they adduced their own evidence against it. It is clear that dismissal of the workman is in violation of the section-25F of the I.D. Act, as the conditions precedent provided in the section before retrenchment of workman have not been followed. In above view of the matter it is held that the termination of workman Mehar Chand from the service vide termination letter dated 17.06.2019 is illegal, same has been passed in violation of natural justice, without holding any departmental inquiry and same is also in violation section 25F of I.D Act.

10. Points no. (iii) Whether workman Mehar Chand is entitled for reinstatement with back wages and other consequential benefits? (iv) What other relief if any in the facts and circumstances of the case?

While discussing points no. (i) & (ii) it has been held that dismissal/termination of Mehar Chand the workman is illegal and in violation of natural justice as well as against the provisions contained in section 25F of I.D Act, therefore, the workman Mehar Chand is entitled for reinstatement on the same post of driver. However, no award for back wages can be passed for the period when workman has been out of job in facts and circumstances of present case and considering that no document is available on the record to show that the petitioner/workman was confirmed employee of respondents.

11. In the light of discussions made here in above and in the facts and circumstances at the present case the present Industrial Disputes is decided in favour of workman. The termination order dated 17.06.2019 passed by respondent no.2 Authorized Signatory Sterling Indo Tech Consultants Pvt. Ltd. is liable to be set aside.

12. It is therefore,

ORDERED

The termination letter dated 17.06.2019 is set aside. An award for reinstatement of the petitioner/workman Mehar Chand is passed hereby. He is entitled to be reinstated again on the post of driver with a direction to respondents especially respondent No.2 M/s Sterling Indo Tech Consultants Pvt. Ltd. to appoint workman Mehar Chand on the same terms and conditions which were applicable to him before his termination. But no award is passed for back wages for the period during which workman Mehar Chand has been out of service.

13. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

Dated: 13.12.2024

B. K. GAUTAM, Presiding Officer

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2290.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महानिदेशक डाक, डाक विभाग, डाक भवन, संसद मार्ग, नई दिल्ली; पोस्टमास्टर जनरल, डाक विभाग, चंडीगढ़, के प्रबंधतंत्र के संबद्ध नियोजकों और सर्कल सचिव, राष्ट्रीय ग्रामीण डाक सेवक संघ पंजाब सर्कल, (बेहाला एस.ओ.),

होशियारपुर, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय-1, चंडीगढ़, पंचाट (संदर्भ संख्या 20/2015) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. एल – 40011-37-2015-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2290.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 20/2015) of the **Central Government Industrial Tribunal cum Labour Court-1, Chandigarh**, as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Director General of Posts, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi; Postmaster General, Department of Posts, Chandigarh, and The Circle Secretary, National Union of Gramin Dak Sewak Punjab Circle, (Bihala S.O.), Hoshiyarpur**, which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. L-40011-37-2015-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Present: Sh. Brajesh Kumar Gautam, Presiding Officer, Chandigarh.

ID No.20/2015

Registered On: 23.11.2015

The Circle Secretary, National Union of Gramin Dak Sewak Punjab Circle, HQ, VPO Patti (Bihala S.O.), Hoshiyarpur-146104.

.....Workmans

Versus

1. The Director General Postal, Department of Post, Dak Bhawan, Sansad Marg, New Delhi 110001.
2. The Post Master General, Department of Post, Sandesh Bhawan, Sector-17-D, Chandigarh-160017.

.....Managements

AWARD

Passed On: 13.12.2024

Central Government vide Notification No. L-40011/37/2015-IR(DU) dated 17.11.2015, under clause (d) of Sub-Section (1) sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the action of the management of Department of Posts in effecting the changes in service conditions of Gramin Dak Sevaks in supersession of the existing Department of Posts, Gramin Dak Sevaks (Conduct and Employment) Rules 2001 to the revised rules called the Gramin Dak Sevaks (conduct and Engagement) Rules 2011 without giving an opportunity of hearing to the Individual and Union as Statutory required under Sec 9-A of the ID Act, 1947 is fair, just and legal? If not to what relief the concerned workmen are entitled to and from which date?”

1. After receipt of above reference, registered notices were sent to workman to file claim statement. On 17.02.2016 claim statement by workman was filed. Written Statement by Respondent/ Management also filed. When case was running for workman's evidence, although he filed evidence through affidavit but did not turn up for cross examination.

2. On the other hand Ld. Counsel for Management Sh. Alankrit Bharadwaj submitted that deliberately workman is not appearing for his Cross-examination. It appears that again a registered letter dated 20.11.2024 sent to workman which is served on 25.11.2024 as per the postal mail tracking report. But the workman did not appear. It is very old case. Several opportunities have already been given to the workman for Cross-examination but of no use. It appears that the workman is not interested in adjudication of the matter on merits. This Central Government Industrial Tribunal-cum-Labour Court-I, Chandigarh is left with no choice except to pass 'No Claim Award'. Accordingly, no

claim award is passed in the present case for the non-prosecution of workman. File after completion be consigned in the record room.

3. Let copy of this award be sent to Central Government for publication as required under Section 17 of the ID Act, 1947.

B. K. GAUTAM, Presiding Officer

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2291.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स ब्लू शील्ड प्रोटेक्शन नेटवर्क प्राइवेट लिमिटेड, ग्रीन पार्क एक्सटेंशन, नई दिल्ली; मेसर्स सोमा आइसोलक्स प्राइवेट लिमिटेड, अंबाला, (हरियाणा), के प्रबंधन के संबद्ध नियोजकों और श्री शेर सिंह, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय-1, चंडीगढ़, पंचाट (संदर्भ संख्या 43/2016) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. एल – 42012-61-2016-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2291.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 43/2016) of the **Central Government Industrial Tribunal cum Labour Court-1, Chandigarh**, as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Blue Shield Protection Network Pvt. Ltd., Green Park Extension, New Delhi ; M/s Soma Isolux Pvt. Ltd., Ambala, (Haryana), and Shri Sher Singh, Worker**, which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. L-42012-61-2016-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Present: Sh. Brajesh Kumar Gautam, Presiding Officer, Chandigarh.

ID No.43/2016

Registered On: 07.10.2016

Sher Singh S/o Sh. Pyara Singh R/o Vill-Bairsal, Tehsil-Nilokheri, Distt-Karnal (Haryana)-132001.

.....Workman

Versus

1. M/s Blue Shield Protection Network Pvt. Ltd., L-11, Green Park Extension, New Delhi-110016.
2. M/s Soma Isolux Pvt. Ltd. Regd. Office, Model Town, Near Maruti Car Driving School, Ambala (Haryana)-133001.

.....Managements

AWARD

Passed On: 29.11.2024

Central Government vide Notification No. L-42012/64/2016-IR(DU) dated 20.09.2016, under clause (d) of Sub-Section (1) sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the Action of the management M/s Blue Shield Protection Network Pvt. Ltd. in terminating the services of the workman Sh. Sher Singh S/o Sh. Pyara Singh, Security Guard w.e.f. 01.12.2014 is legal and justified? If not, what relief the workman is entitled to and from which date?”

1. After receipt of above reference, registered notices were sent to workman to file claim statement. Despite service of registered notices upon workman he did not turn up before this Tribunal.
2. Perused the file and it is found that none is appearing on behalf of workman. Several opportunities have already been given to the workman to file the claim statement but of no use. Which denotes that the workman is not interested in adjudication of the matter on merits as such, this Tribunal is left with no choice except to pass a 'No Claim Award'. Accordingly, no claim award is passed in the present case for the non-prosecution of workman. File after completion be consigned in the record room.
3. Let copy of this award be sent to Central Government for publication as required under Section 17 of the ID Act, 1947.

B. K. GAUTAM, Presiding Officer

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2292.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक, मेसर्स रक्षक सिक्यूरिटास (प्राइवेट) लिमिटेड, द्वारका, नई दिल्ली; महाप्रबंधक, मेसर्स इंटरनेशनल सेंटर फॉर ऑटोमोटिव टेक्नोलॉजी, आईएमटी मानेसर, गुडगांव, के प्रबंधन के संबद्ध नियोजकों और श्री समय सिंह, कामगार, द्वारा -महासचिव, मर्केटाइल कर्मचारी संघ, अमर नगर, फरीदाबाद, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-1, चंडीगढ़, पंचाट (संदर्भ संख्या 89/2014) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. एल - 42011-16-20214-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2292.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 89/2014) of the **Central Government Industrial Tribunal cum Labour Court -1, Chandigarh**, as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Director, M/s Rakshak Securities (Pvt) Ltd., Dwarka, New Delhi ; The General Manager, M/s International Centre for Automotive Technology, IMT Manesar, Gurgaon, and Shri Samay Singh, Worker, through- The General Secretary, Mercantile Employees Association, Amar Nagar, Faridabad**, which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. L-42011-16-20214-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Presiding Officer: Sh. Brajesh Kumar Gautam,

ID No. 89/2014

Registered On:- 22.05.2014

Samay Singh S/o Sh. Dhan Singh, Ex Workman, C/o Sh. Hublal Yadav, General Secretary, Mercantile Employees Association, H.No.530, Near Prem Public School, Dayal Nagar, PO-Amar Nagar, Faridabad-121003.

.....Workman

Versus

1. The Director M/s Rakshak Securities (Pvt) Ltd., T-5, Plot No.12, Manish Plaza-111, Sector 10, Dwarka, New Delhi-110075.
2. The General Manager, M/s International Centre for Automotive Technology, Plot No.26, Sec 3, HSIDC, IMT Manesar, Gurgaon-122050.

.....Respondents

Counsels for the Parties:

Sh. Shashi Kumar Yadav AR for Workman

None for Management (already ex-parte)

Judgment reserved on 04th December, 2024

Judgment/Award Pronounced on 17th December, 2024

JUDGMENT/ AWARD

1. Central Government vide Notification No. L-42011/16/2014-IR(DU) dated 05.05.2014, under clause (d) of Sub-Section (1) sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), has referred the following Industrial dispute for adjudication to this Tribunal:

'Whether the action of the management of the General Manager, M/s International Centre for Automotive Technology (ICAT), IMT Manesar, Gurgaon for giving appointment directly and later on deployed through contractor and thereafter termination of services of Shri Samay Singh S/o Sh. Dhan Singh Ex Workman w.e.f. 28.05.2012 is just, fair and legal? If not, to what relief the workman is entitled to and from which date?'

2. It may be mentioned that after receipt of above said reference, notice to workman was issued for filing statement of claim with relevant documents, list of reliance and witnesses but no such claim was filed by the workman and by order dated 03.11.2014 the then Presiding Officer of this CGIT-cum-Labour Court-I, Chandigarh, dismissed the reference for want of prosecution. However, Hon'ble Punjab & Haryana High Court vide order dated 29.02.2016 passed in CWP No.25029 of 2015 was pleased to set aside order dated- 03.11.2014 and directed this Court to decide the reference on merit and thereafter, the workman Samay Singh filed his claim statement on 22.05.2017.

3. **The case of Workman-** According to the claim statement, the workman Samay Singh was directly appointed by M/s Automotive Research Association of India Company as Shop Floor Operator on 05.11.2002. In 2007 the name of the company was changed as M/s International Centre for Automotive Technology (I.C.A.T.), Plot No.26, Sector 3, HSIDC, IMT Manesar, Gurgaon. In this company more than one thousand workers are working. The last drawn salary of the applicant/ workman was Rs.9024/- per month. The work and conduct of the applicant/ workman remained always satisfactory, he never gave a chance of complaint. It is stated that the respondent/ management had not given any statutory benefits and legal aid. The respondent/management also got workman's signature on blank papers, vouchers and forms on the pretext that these signed papers are required for Pension Scheme. The Respondent/ Management did not permit the applicant/ workman on duty w.e.f. 28.05.2012 by saying that work load was too less and as soon as the work load would increase he would be called back with continuity of service and full back wages. But the Respondent/ Management did not call for duty till date and even Respondent/ Management did not pay wages including over time for the month of May, 2012. The applicant/ workman had continually approached to the respondent/ management for his duty but the Respondent/ Management gave only promises months after months and finally they denied. The applicant/ workman had worked for more than 240 days in each years of his service from 05.11.2002 to 27.05.2012 and there is no break in his service during this period. The action of the Respondent/ Management was against the provision of Section 25F, 25N and 25G of the Industrial Disputes Act, 1947. It is stated that the Respondent / Management terminated the services of the applicant-workman without paying him his earned wages and other dues. The act of the Respondent/ Management of the termination of the services of the applicant/ workman is totally illegal, arbitrary and in violation of the provisions laid down in the I.D. Act and against the principle of natural justice. It has been prayed that the services of the applicant/ workman be ordered to be reinstated with full back wages and continuity of services alongwith other benefits.

4. **The case of Respondent-** In response to the notices issued upon respondent a written statement has been filed on behalf of respondent, but same has been shown purported to be filed on behalf of Respondent No.2. It may be noted that in the present dispute there is no respondent No.2 arrayed as a party in the claim statement and an objection to this effect has been raised in the rejoinder/ replication filed on behalf of workman.

5. **The case of respondent which may be stated in brief** is that workman was never appointed or employed by the respondent and there was no employer-employee relationship between the replying respondent and the workman. According to respondent, names of workman employed are borne on muster rolls and other records of the management but the name of workman does not appear anywhere in such record. It is further case of respondent that in absence of any employee-employer relationship question of terminating the service does not arise. It is also stated that workman has not approached the Court with clean hands and has concealed the certain material facts. No Industrial Dispute exists between the workman and the replying respondent. According to further case of respondent the workman was engaged on contract by contractor M/s Rakshak Securities Private Limited under the provisions of Contract Labour (R&A Act 1970). It has been further stated that said contractor has not been made a party to present case intentionally in the claim statement filed by workman and therefore the reference is not maintainable. While giving para wise reply to the claim statement, the respondent has denied that workman was ever appointed and worked with replying respondent. It is stated that workman was employed on temporary basis and later on he was

employed by the contractor as per the stand taken by contractor in the Conciliation Proceedings the services of Workman was transferred by the contractor vide letter dated 24.05.2012 but the workman had not joined the place of transfer. It is also denied that replying respondent did not provide statutory benefits to workman. It is denied by the respondent that since 28.05.2012 management stopped taking work from the workman and assured that when work load could increase he will be called back to the service. It has been denied by replying respondent that workman had ever approached respondent for his duty and that he worked earlier for more than 240 days from 05.11.2002 to 27.05.2012 without any break in the service. It is also case of respondent that there is no violation of any provisions contained in Section 25 F, 25 N & 25 G of the Industrial Dispute Act, 1947. According to the respondent the reference is bad in law petitioner is not a workman employed by respondent management and he is not entitled to any relief.

6. **Issue for adjudication:** As already stated herein above that present industrial dispute case has arisen on a Reference, the point/issue which requires adjudication in the present case is the question itself referred under Section 10 of the ID Act as-

'Whether the action of the management of the General Manager, M/s International Centre for Automotive Technology (ICAT), IMT Manesar, Gurgaon for giving appointment directly and later on deployed through contractor and thereafter termination of services of Shri Samay Singh S/o Sh. Dhan Singh Ex Workman w.e.f. 28.05.2012 is just, fair and legal? If not, to what relief the workman is entitled to and from which date?'

7. **Evidence of parties:** During hearing of the case the workman got examined himself as a witness and several documents have been brought on the record which are marked as Ex WW-1/1 to Ex WW-1/49. These documents are-Salary Slips, office notes related with duty, order for appointing workman as office attendant. Photocopy of cheque for an amount Rs.6000/-, ID Cards, Canteen Cash Memo, Medical Fitness report, employees monthly report, skill test certificates/ competency test certificates, Employees State Insurance Corporation Form, Employees' Pension Scheme and Contribution, Income Tax Form 16 etc. (These documents are not marked in series nature wise but are marked in haphazard way while recording the evidence of workman).

8. On behalf of management no evidence has been adduced, despite opportunity given and Management was proceeded ex-parte when it left taking proper step in the present case.

9. **Submission of the Parties:** It has been submitted on behalf of Workman that Samay Singh had joined service with respondent on 05.11.2002 and was drawing regular salary of Rs.9,024/- when all of sudden without any rhyme and reason the respondent stopped taking work since 28.05.2012 and he the workman was communicated that his services were no more required. According to Ld. Counsel the arbitrary removal and termination of workman is in violation of the provisions contained in Section 25 F, 25 G and 25 M of the Industrial Dispute Act. According to Ld. Counsel the termination of workman is completely illegal, unfair and against the provisions of Industrial Dispute Act. It is also argued that in fact after recruiting the workman directly the respondent again placed his employment through contractor and ultimately terminated arbitrarily. It is also argued that there is certificate which has been brought on record as Ex.WW-1/49 dated 03.02.2012 issued by HOD (HR) V. Sankaran wherein it is mentioned that workman Samay Singh is working with respondent since 05.11.2002 till the date as Shop Floor Operator and getting monthly salary of Rs.9024/- per month. This document itself is sufficient to show that workman had worked for a period of 10 years continuously and he cannot be terminated without following due procedures laid down in Industrial Dispute Act. It is also argued that during hearing of the present case even an application was filed for summoning certain records from the office of respondent but those records were not provided which shows that respondent management has deliberately concealed the documents showing regular service of the workman. According to Ld. Counsel it is a fit case where an award in favor of workman may be passed by setting aside termination of services w.e.f. 28.05.2012 by the respondent and directing the respondent to reinstate the workman on the same terms and conditions which were applicable on the date of termination of services of the workman.

10. None appeared in this case on behalf of Respondent-Management to argue the case against the claim of workman. It may be mentioned that because of not taking proper steps the respondent-management has already been proceeded ex-parte.

Findings

11. On the record no written termination order either produced by workman or brought on record by respondent with written statement which was filed earlier. A perusal of written statement filed on behalf of respondent depicts that according to respondent there was no employer-employee relationship between respondent and workman and it was also denied that respondent had ever appointed or employed the workman at its establishment. Name of workman does not borne under Muster Rolls and as per respondents written statement neither there was any employer-employee relationship nor question of terminating the service arises. According to case of respondents workman was only a contract labour employed on temporary basis. However, the uncontroverted/ unrebutted documents which have been brought on record shows that the stand taken by respondent in its written statement is without any basis. To clarify my view, I may refer to a document which is Exhibit WW-1/1 which is a letter of temporary appointment

dated 23.10.2006 and a certificate dated 03.02.2012 brought on record as Ex.WW-1/49. Although the initiation appointment letter of October, 2006 shows that it was a temporary appointment w.e.f. 01.11.2006 for one year but the certificate dated 03.02.2012 shows that workman Samay Singh has been in service since 05.11.2002 and was getting salary of Rs.9024/- per month. The effect of the certificate issued by HOD of the respondent clearly establishes the fact that the workman was already in service since 05.11.2002 and temporary appointment letter has only been issued in October, 2006 to deprive workman from his legitimate dues from the respondent. Not only this, even this certificate of HOD further proves the fact that even temporary appointment continued at least till 03.02.2012 when this certificate was issued. Other documents which are on the record also show that workman was also member of Employees State Insurance Scheme and there has been also contribution in that scheme. Employee's Monthly report which are Exhibit WW-1/27 and Ex.WW-1/32 show that workman was working even in April 2012 as per the said Employees Monthly Report. On the record are also there are some office notes issued on 12.12.2005, 24.04.2007, 12.01.2010 which show that workman was on duty with the respondent and therefore the stand taken in written statement on behalf of respondent that it was only a contractual and purely temporary employment cannot be accepted. Whatever evidence oral and documentary brought on record on behalf of workman could not be shaken or rebutted by management. Although a cross examination of workman was done on behalf of respondent-Management. In above view of the matter from the appreciation of available documents on the record and analysis of evidence it can be held that the workman was initially appointed by the respondent and he was working since 05.11.2002 but later on by issuing a temporary appointment letter dated October, 2006 the respondent illegally attempted to deprive the workman of his legitimate dues. It is not in dispute that the respondent-company is still functional and not closed therefore, on the pretext of no workload it cannot stop taking work from the workman who served for about 10 years with it.

12. Section 25 F of the Industrial Dispute Act stipulates conditions precedent to retrenchment of workman and according to this Section a workman who had worked for not less than one year in continuation, he can only be retrenched by employer after fulfilling certain conditions stipulated in that section. For Example workman is entitled for one month notice in writing indicating reasons for retrenchment or the workman has been paid in lieu of such notice wages for the period of that notice. In the present case I have already pointed out that this workman has worked continuously with respondent for about 10 years and therefore his retrenchment without any notices assigning reason for the same is certainly in violation of Section 25 F. The Supreme Court of India reported decision *Management, W.B. India Limited Versus Jagannath AIR 1974 SC 1166* has held that even a temporary workman is retrenched has right to claim retrenchment compensation. In another decision *Ramesh Kumar Versus State of Haryana (2010) (2) SCC 543* the Hon'ble Supreme Court has held that even a casual employee if has completed 240 days of service in preceding 12 months then his service cannot be terminated without giving notice or compensation in lieu of it in terms of Section 25 F of the ID Act. In the light of above decisions of Hon'ble Supreme Court it can be safely held that the arbitrary action on part of respondent in not taking work from workman Samay Singh w.e.f. 28.05.2012 is unjust, unfair and illegal and same is in violation of Section 25 F of the Industrial Dispute Act.

13. In the light of discussions made here in above and in the facts and circumstances at the present case the Reference received from Government of India Ministry of Labour vide *Reference No.L-42011/16/2014-IR(DU) dated 05.05.2014* is adjudicated in favour of workman Samay Singh and it is held that Samay Singh the workman was appointed directly by the respondent and later on a temporary appointment was issued and his termination from services of respondent w.e.f. 28.05.2012 was unjust, unfair and illegal in violation of provisions contained in Section 25 F of Industrial Dispute Act. The workman Samay Singh is entitled for reinstatement on the same post and respondent is directed to take work and duty from the workman and pay back wages w.e.f. 28.05.2012 with all other consequential benefits.

14. It is therefore,

ORDERED

An award in favour of workman Samay Singh is passed hereby declaring the termination of service w.e.f. 28.05.2012 as unjust, unfair and illegal. The workman Samay Singh is entitled for reinstatement on the same post and respondent is directed to take work and duty from the workman and pay back wages w.e.f. 28.05.2012 with all other consequential benefits.

15. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

Dated: 17-12-2024

B. K. GAUTAM, Presiding Officer

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2293.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक, मेसर्स रक्षक सिक्यूरिटास (प्राइवेट) लिमिटेड, द्वारका, नई दिल्ली; महाप्रबंधक, मेसर्स इंटरनेशनल सेंटर फॉर ऑटोमोटिव टेक्नोलॉजी, आईएमटी मानेसर, गुडगांव, के प्रबंधन के संबद्ध नियोजकों और श्री सुरेन्द्र कुमार जोगी,

कामगार, द्वारा -महासचिव, मर्केटाइल कर्मचारी संघ, अमर नगर, फरीदाबाद,के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-1,चंडीगढ़,पंचाट (संदर्भ संख्या 90/2014)को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. एल – 42011-17-20214-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2293.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 90/2014) of the **Central Government Industrial Tribunal cum Labour Court -1, Chandigarh**, as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Director, M/s Rakshak Securities (Pvt) Ltd., Dwarka, New Delhi ;The General Manager, M/s International Centre for Automotive Technology, IMT Manesar, Gurgaon, and Shri Surender Kumar Jogi, Worker, through- The General Secretary, Mercantile Employees Association, Amar Nagar, Faridabad**, which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. L-42011-17-20214-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Presiding Officer: Sh. Brajesh Kumar Gautam,

ID No.90 /2014

Registered On:-22.05.2014

Surender Kumar Jogi S/o Sh. Amar Singh Ex Workman, C/o Sh. Hublal Yadav, General Secretary, Mercantile Employees Association, H.No.530, Near Prem Public School, Dayal Nagar, PO-Amar Nagar, Faridabad-121003 .

.....**Workman**

Versus

1. The Director M/s Rakshak Securities (Pvt) Ltd., T-5, Plot No.12, Manish Plaza-111, Sector 10, Dwarka, New Delhi-110075.
2. The General Manager, M/s International Centre for Automotive Technology, Plot No.26, Sec 3, HSIDC, IMT Manesar, Gurgaon-122050.

.....**Respondents**

Counsels for the Parties:

Sh. Shashi Kumar Yadav AR for Workman

None for Management (already ex-parte)

Judgment reserved on 04th December, 2024

Judgment/Award Pronounced on 17th December, 2024

JUDGMENT/AWARD

1. Central Government vide Notification No. L-42011/17/2014-IR(DU) dated 08.05.2014, under clause (d) of Sub-Section (1) sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), has referred the following Industrial dispute for adjudication to this Tribunal:

'Whether the action of the management of the General Manager, M/s International Centre for Automotive Technology (ICAT), IMT Manesar, Gurgaon for giving appointment directly and later on deployed through contractor and thereafter termination of services of Shri Surender Kumar Jogi S/o Shri Amar Singh Jogi, Ex Workman w.e.f. 28.05.2012 is just, fair and legal? If not, to what relief the workman is entitled to and from which date?'

2. It may be mentioned that after receipt of above said reference, notice to workman was issued for filing statement of claim with relevant documents, list of reliance and witnesses but no such claim was filed by the workman and by order dated 03.11.2014 the then Presiding Officer of this CGIT-cum-Labour Court-I, Chandigarh, dismissed the reference for want of prosecution. However, Hon'ble Punjab & Haryana High Court vide order dated 29.02.2016

passed in CWP No.24979 of 2015 was pleased to set aside order dated- 03.11.2014 and directed this Court to decide the reference on merit and thereafter, the workman Surender Kumar Jogi filed his claim statement on 22.05.2017.

3. **The case of Workman-** According to the claim statement, the workman Surender Kumar Jogi was directly appointed by M/s Automotive Research Association of India Company as Shop Floor Operator on 28.07.2004. In 2007 the name of the company was changed as M/s International Centre for Automotive Technology (I.C.A.T.), Plot No.26, Sector 3, HSIDC, IMT Manesar, Gurgaon. In this company more than one thousand workers are working. The last drawn salary of the applicant/ workman was Rs.8267/- per month. The work and conduct of the applicant/ workman remained always satisfactory, he never gave a chance of complaint. It is stated that the respondent/ management had not given any statutory benefits and legal aid. The respondent/management also got workman's signature on blank papers, vouchers and forms on the pretext that these signed papers are required for Pension Scheme. The Respondent/ Management did not permit the applicant/ workman on duty w.e.f. 28.05.2012 by saying that work load was too less and as soon as the work load would increase he would be called back with continuity of service and full back wages. But the Respondent/ Management did not call for duty till date and even Respondent/ Management did not pay wages including over time for the month of May, 2012. The applicant/ workman had continually approached to the respondent/ management for his duty but the Respondent/ Management gave only promises months after months and finally they denied. The applicant/ workman had worked for more than 240 days in each years of his service from 28.07.2004 to 27.05.2012 and there is no break in his service during this period. The action of the Respondent/ Management was against the provision of Section 25F, 25N and 25G of the Industrial Disputes Act, 1947. It is stated that the Respondent / Management terminated the services of the applicant-workman without paying him his earned wages and other dues. The act of the Respondent/ Management of the termination of the services of the applicant/ workman is totally illegal, arbitrary and in violation of the provisions laid down in the I.D. Act and against the principle of natural justice. It has been prayed that the services of the applicant/ workman be ordered to be reinstated with full back wages and continuity of services alongwith other benefits.

4. **The case of Respondent-** In response to the notices issued upon respondent a written statement has been filed on behalf of respondent, but same has been shown purported to be filed on behalf of Respondent No.2. It may be noted that in the present dispute there is no respondent No.2 arrayed as a party in the claim statement and an objection to this effect has been raised in the rejoinder/ replication filed on behalf of workman.

5. **The case of respondent which may be stated in brief** is that workman was never appointed or employed by the respondent and there was no employer-employee relationship between the replying respondent and the workman. According to respondent, names of workman employed are borne on muster rolls and other records of the management but the name of workman does not appear anywhere in such record. It is further case of respondent that in absence of any employee-employer relationship question of terminating the service does not arise. It is also stated that workman has not approached the Court with clean hands and has concealed the certain material facts. No Industrial Dispute exists between the workman and the replying respondent. According to further case of respondent the workman was engaged on contract by contractor M/s Rakshak Securities Private Limited under the provisions of Contract Labour (R&A Act 1970). It has been further stated that said contractor has not been made a party to present case intentionally in the claim statement filed by workman and therefore the reference is not maintainable. While giving para wise reply to the claim statement, the respondent has denied that workman was ever appointed and worked with replying respondent. It is stated that workman was employed on temporary basis and later on he was employed by the contractor as per the stand taken by contractor in the Conciliation Proceedings the services of Workman was transferred by the contractor vide letter dated 25.05.2012 but the workman had not joined the place of transfer. It is also denied that replying respondent did not provide statutory benefits to workman. It is denied by the respondent that since 28.05.2012 management stopped taking work from the workman and assured that when work load would increase he would be called back to the service. It has been denied by replying respondent that workman had ever approached respondent for his duty and that he worked earlier for more than 240 days from 28.07.2004 to 27.05.2012 without any break in the service. It is also case of respondent that there is no violation of any provisions contained in Section 25 F, 25 N & 25 G of the Industrial Dispute Act, 1947. According to the respondent the reference is bad in law petitioner is not a workman employed by respondent management and he is not entitled to any relief.

6. **Issue to be adjudicated:** As already stated herein above that present industrial dispute case has arisen on a Reference, the point/issue which requires adjudication in the present case is the question itself referred under Section 10 of the ID Act as-

“Whether the action of the management of the General Manager, M/s International Centre for Automotive Technology (ICAT), IMT Manesar, Gurgaon for giving appointment directly and later on deployed through contractor and thereafter termination of services of Shri Surender Kumar Jogi S/o Shri Amar Singh Jogi, Ex Workman w.e.f. 28.05.2012 is just, fair and legal? If not, to what relief the workman is entitled to and from which date?”

7. **Evidence of parties:** During hearing of the case the workman got examined himself as a witness and several documents have been brought on the record which are marked as Ex WW-1/1 to Ex WW-1/49. These documents are-

Salary Slips, office notes related with duty, ID Cards, Canteen Cash Memo, Medical Fitness report, employees monthly report, skill test certificates/ competency test certificates, Employees State Insurance Corporation Form, Employees' Pension Scheme and Contribution, Secondary Examination Certificate, over time chart etc. (These documents are not marked in series nature wise but are marked in haphazard way while recording the evidence of workman).

8. On behalf of management no evidence has been adduced, despite opportunity given and Management was proceeded ex-parte when it left taking proper step in the present case.

9. Submission of the Parties: It has been submitted on behalf of Workman that Surender Kumar Jogi had joined service with respondent on 28.07.2004 and was drawing regular salary of Rs.8267/- when all of sudden without any rhyme and reason the respondent stopped taking work since 28.05.2012 and he the workman was communicated that his services were no more required. According to Ld. Counsel the arbitrary removal and termination of workman is in violation of the provisions contained in Section 25 F, 25 G and 25 N of the Industrial Dispute Act. According to Ld. Counsel the termination of workman is completely illegal, unfair and against the provisions of Industrial Dispute Act. It is also argued that in fact after recruiting the workman directly the respondent again placed his employment through contractor and ultimately terminated arbitrarily. It is also argued that there is certificate which has been brought on record as Ex.WW-1/49 dated 05.04.2012 issued by HOD (HR) V. Sankaran wherein it is mentioned that workman Surender Kumar Jogi is working with respondent since 28.07.2004 till the date as Shop Floor Operator and getting monthly salary of Rs.8267/- per month. This document itself is sufficient to show that workman had worked for a period of about 8 years continuously and he cannot be terminated without following due procedures laid down in Industrial Dispute Act. It is also argued that during hearing of the present case even an application was filed for summoning certain records from the office of respondent but those records were not provided which shows that respondent management has deliberately concealed the documents showing regular service of the workman. According to Ld. Counsel it is a fit case where an award in favor of workman may be passed by setting aside termination of services w.e.f. 28.05.2012 by the respondent and directing the respondent to reinstate the workman on the same terms and conditions which were applicable on the date of termination of services of the workman.

10. None appeared in this case on behalf of Respondent-Management to argue the case against the claim of workman. It may be mentioned that because of not taking proper steps the respondent-management has already been proceeded ex-parte.

Findings

11. On the record no written termination order either produced by workman or brought on record by respondent with written statement which was filed earlier. A perusal of written statement filed on behalf of respondent depicts that according to respondent there was no employer-employee relationship between respondent and workman and it was also denied that respondent had ever appointed or employed the workman at its establishment. Name of workman does not borne under Muster Rolls and as per respondents written statement neither there was any employer-employee relationship nor question of terminating the service arises. According to case of respondents workman was only a contract labour employed on temporary basis. However, the uncontroverted/ unrebutted documents which have been brought on record shows that the stand taken by respondent in its written statements is without any basis. To clarify my view, I may refer to a document which is Exhibit WW-1/1 which is a letter of temporary appointment dated 23.10.2006 and a certificate dated 05.04.2012 brought on record as Ex.WW-1/49. Although the initiation appointment letter of October, 2006 shows that it was a temporary appointment w.e.f. 01.11.2006 for one year but the certificate dated 05.04.2012 shows that workman Surender Kumar Jogi has been in service since 28.07.2004 and was getting salary of Rs.8267/- per month. The effect of the certificate issued by HOD of the respondent clearly establishes the fact that the workman was already in service since 28.07.2004 and temporary appointment letter has only been issued in October, 2006, to deprive workman from his legitimate dues from the respondent. Not only this, even this certificate of HOD further proves the fact that even temporary appointment continued till 05.04.2012 when this certificate was issued. Other documents which are on the record also shows that workman was also member of Employees State Insurance Scheme and there has been also contribution in that scheme. Employee's Monthly report which is Exhibit Ex.WW-1/32 shows that workman was working even in April 2012 as per the said Employees Monthly Report. On the record are also there are office notes issued on 29-09-2011, which shows that workman was on duty with the respondent and therefore the stand taken in written statement on behalf of respondent that it was only a contractual and purely temporary employment cannot be accepted. Whatever evidence oral and documentary brought on record on behalf of workman could not be shaken or rebutted by management. Although a cross examination of workman was done on behalf of respondent-Management. In above view of the matter from the appreciation of available documents on the record and analysis of evidence it can be held that the workman was initially appointed by the respondent and he was working since 28.07.2004 but later on by issuing a temporary appointment letter dated October, 2006 the respondent illegally attempted to deprive the workman of his legitimate dues. It is not in dispute that the respondent-company is still working and therefore, on the pretext of no workload it cannot stop taking work from the workman who served for about 10 years with it.

12. Sections 25 F, 25N of the Industrial Dispute Act stipulates conditions precedent to retrenchment of workman and according to this Section a workman who had worked for not less than one year in continuation, he can only be

retrenched by employer after fulfilling certain conditions stipulated in that section. For Example workman is entitled for one month/3 months' notice in writing indicating reasons for retrenchment or the workman has been paid in lieu of such notice wages for the period of that notice. In the present case I have already pointed out that this workman has worked continuously with respondent for about 8 years and therefore his retrenchment without any notices assigning reason for the same is certainly in violation of Sections 25 F/25N. The Supreme Court of India reported decision *Management, W.B. India Limited Versus Jagannath AIR 1974 SC 1166* has held that even a temporary workman is retrenched has right to claim retrenchment compensation. In another decision *Ramesh Kumar Versus State of Haryana (2010) (2) SCC 543* the Hon'ble Supreme Court has held that even a casual employee if has completed 240 days of service in preceding 12 months then his service cannot be terminated without giving notice or compensation in lieu of it in terms of Section 25 F of the ID Act. In the light of above decisions of Hon'ble Supreme Court it can be safely held that the arbitrary action on part of respondent in not taking work from workman Surender Kumar Jogi w.e.f. 28.05.2012 is unjust, unfair and illegal and in violation of Section 25 F of the Industrial Dispute Act.

13. In the light of discussions made here in above and in the facts and circumstances at the present case the reference received from Government of India Ministry of Labour vide Reference No.L-42011/17/2014-IR(DU) dated 08.05.2014 is adjudicated in favour of workman Surender Kumar Jogi and it is held that Surender Kumar Jogi the workman was appointed directly by the respondent and later on a temporary appointment was issued and his termination from services of respondent w.e.f. 28.05.2012 was unjust, unfair and illegal in violation of provisions contained in Section 25 F of Industrial Dispute Act. The workman Surender Kumar Jogi is entitled for reinstatement on the same post and respondent is directed to take work and duty from the workman and pay back wages w.e.f. 28.05.2012 with all other consequential benefits.

14. It is therefore,

ORDERED

An award in favor of workman Surender Kumar Jogi is passed hereby declaring the termination of service w.e.f. 28.05.2012 as unjust, unfair and illegal. The workman Surender Kumar Jogi is entitled for reinstatement on the same post and respondent is directed to take work and duty from the workman and pay back wages w.e.f. 28.05.2012 with all other consequential benefits.

15. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

Dated: 17-12-2024

B. K. GAUTAM, Presiding Officer

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2294.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक, मेसर्स रक्षक सिक्यूरिटास (प्राइवेट) लिमिटेड, द्वारका, नई दिल्ली; महाप्रबंधक, मेसर्स इंटरनेशनल सेंटर फॉर ऑटोमोटिव टेक्नोलॉजी, आईएमटी मानेसर, गुडगांव, के प्रबंधन के संबद्ध नियोजकों और श्री अजेश शर्मा, कामगार, द्वारा-महासचिव, मर्केटाइल कर्मचारी संघ, अमर नगर, फरीदाबाद, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-1, चंडीगढ़, पंचाट (संदर्भ संख्या 91/2014) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. एल - 42011-18-20214-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2294.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 91/2014) of the **Central Government Industrial Tribunal cum Labour Court -1, Chandigarh**, as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Director, M/s Rakshak Securities (Pvt) Ltd., Dwarka, New Delhi ;The General Manager, M/s International Centre for Automotive Technology, IMT Manesar, Gurgaon, and Shri Ajesh Sharma, Worker, through- The General Secretary, Mercantile Employees Association, Amar Nagar, Faridabad**, which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. L-42011-18-20214-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Presiding Officer: Sh. Brajesh Kumar Gautam,

ID No. 91 /2014

Registered On:-22.05.2014

Ajesh Sharma S/o Sh. Ram Kumar Sharma. Ex Workman C/o Sh. Hublal Yadav, General Secretary, Mercantile Employees Association, H.No.530, Near Prem Public School, Dayal Nagar, PO-Amar Nagar, Faridabad-121003 .

.....Workman

Versus

1. The Director M/s Rakshak Securities (Pvt) Ltd., T-5, Plot No.12, Manish Plaza-111, Sector 10, Dwarka, New Delhi-110075.
2. The General Manager, M/s International Centre for Automotive Technology, Plot No.26, Sec 3, HSIDC, IMT Manesar, Gurgaon-122050.

.....Respondents

Counsels for the Parties:

Sh. Shashi Kumar Yadav AR for Workman

None for Management (already ex-parte)

*Judgment reserved on 04th December, 2024**Judgment/Award Pronounced on 17th December, 2024*JUDGMENT/ AWARD

1. Central Government vide Notification No. L-42011/18/2014-IR(DU) dated 06.05.2014, under clause (d) of Sub-Section (1) sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), has referred the following Industrial dispute for adjudication to this Tribunal:

'Whether the action of the management of the General Manager, M/s International Centre for Automotive Technology (ICAT), IMT Manesar, Gurgaon for giving appointment directly and later on deployed through contractor and thereafter termination of services of Shri Ajesh Sharma S/o Sh. Ram Kumar Sharma Ex Workman w.e.f. 28.05.2012 is just, fair and legal? If not, to what relief the workman is entitled to and from which date?'

2. It may be mentioned that after receipt of above said reference, notice to workman was issued for filing statement of claim with relevant documents, list of reliance and witnesses but no such claim was filed by the workman and by order dated 03.11.2014 the then Presiding Officer of this CGIT-cum-Labour Court-I, Chandigarh, dismissed the reference for want of prosecution. However, Hon'ble Punjab & Haryana High Court vide order dated 29.02.2016 passed in CWP No.25018 of 2015 was pleased to set aside order dated- 03.11.2014 and directed this Court to decide the reference on merit and thereafter, the workman Ajesh Sharma filed his claim statement on 22.05.2017.

3. **The case of Workman-** According to the claim statement, the workman Ajesh Sharma was directly appointed by M/s Automotive Research Association of India Company as D.G. Operator on 20.08.2002. In 2007 the name of the company was changed as M/s International Centre for Automotive Technology (I.C.A.T.), Plot No.26, Sector 3, HSIDC, IMT Manesar, Gurgaon. In this company more than one thousand workers are working. The last drawn salary of the applicant/ workman was Rs.9024/- per month. The work and conduct of the applicant/ workman remained always satisfactory, he never gave a chance of complaint. It is stated that the respondent/ management had not given any statutory benefits and legal aid. The respondent/management also got workman's signature on blank papers, vouchers and forms on the pretext that these signed papers are required for Pension Scheme. The Respondent/ Management did not permit the applicant/ workman on duty w.e.f. 28.05.2012 by saying that work load was too less and as soon as the work load would increase he would be called back with continuity of service and full back wages. But the Respondent/ Management did not call for duty till date and even Respondent/ Management did not pay wages including over time for the month of May, 2012. The applicant/ workman had continually approached to the respondent/ management for his duty but the Respondent/ Management gave only promises months after months and finally they denied. The applicant/ workman had worked for more than 240 days in each years of his service from 20.08.2002 to 27.05.2012 and there is no break in his service during this period. The action of the Respondent/ Management was against the provision of Section 25F, 25N and 25G of the Industrial Disputes Act, 1947. It is stated that the Respondent / Management terminated the services of the applicant-workman without paying him his earned wages and other dues. The act of the Respondent/ Management of the termination of the services of the applicant/

workman is totally illegal, arbitrary and in violation of the provisions laid down in the I.D. Act and against the principle of natural justice. It has been prayed that the services of the applicant/ workman be ordered to be reinstated with full back wages and continuity of services alongwith other benefits.

4. **The case of Respondent-** In response to the notices issued upon respondent a written statement has been filed on behalf of respondent, but same has been shown purported to be filed on behalf of Respondent No.2. It may be noted that in the present dispute there is no respondent No.2 arrayed as a party in the claim statement and an objection to this effect has been raised in the rejoinder/ replication filed on behalf of workman.

The case of respondent which may be stated in brief is that workman was never appointed or employed by the respondent and there was no employer-employee relationship between the replying respondent and the workman. According to respondent, names of workman employed are borne on muster rolls and other records of the management but the name of workman does not appear anywhere in such record. It is further case of respondent that in absence of any employee-employer relationship question of terminating the service does not arise. It is also stated that workman has not approached the Court with clean hands and has concealed the certain material facts. No Industrial Dispute exists between the workman and the replying respondent. According to further case of respondent the workman was engaged on contract by contractor M/s Rakshak Securities Private Limited under the provisions of Contract Labour (R&A Act 1970). It has been further stated that said contractor has not been made a party to present case intentionally in the claim statement filed by workman and therefore the reference is not maintainable. While giving para wise reply to the claim statement, the respondent has denied that workman was ever appointed and worked with replying respondent. It is stated that workman was employed on temporary basis and later on he was employed by the contractor as per the stand taken by contractor in the Conciliation Proceedings the services of Workman was transferred by the contractor vide letter dated 25.05.2012 but the workman had not joined the place of transfer. It is also denied that replying respondent did not provide statutory benefits to workman. It is denied by the respondent that since 28.05.2012 management stopped taking work from the workman and assured that when work load could increase he will be called back to the service. It has been denied by replying respondent that workman had ever approached respondent for his duty and that he worked earlier for more than 240 days from 20.08.2002 to 27.05.2012 without any break in the service. It is also case of respondent that there is no violation of any provisions contained in Section 25 F, 25 N & 25 G of the Industrial Dispute Act, 1947. According to the respondent the reference is bad in law petitioner is not a workman employed by respondent management and he is not entitled to any relief.

5. **Issue to be adjudicated-** As already stated herein above that present industrial dispute case has arisen on a Reference, the point/issue which requires adjudication in the present case is the question itself referred under Section 10 of the ID Act as-

'Whether the action of the management of the General Manager, M/s International Centre for Automotive Technology (ICAT), IMT Manesar, Gurgaon for giving appointment directly and later on deployed through contractor and thereafter termination of services of Shri Ajesh Sharma S/o Sh. Ram Kumar Sharma Ex Workman w.e.f. 28.05.2012 is just, fair and legal? If not, to what relief the workman is entitled to and from which date?'

6. **Evidence of parties-** During hearing of the case the workman got examined himself as a witness and several documents have been brought on the record which are marked as Ex WW-1/1 to Ex WW-1/28. These documents are- Appointment letter, Salary Slips, appointment as Mali, ID Cards, over night shifts note, employees monthly report, skill test certificates/ competency test certificates, Employees State Insurance Corporation Form, Employees' Pension Scheme and Contribution etc. (These documents are not marked in series nature wise but are marked in haphazard way while recording the evidence of workman).

7. On behalf of management no evidence has been adduced, despite opportunity given and Management was proceeded ex-parte when it left taking proper step in the present case.

8. **Submission of the Parties-** It has been submitted on behalf of Workman that Ajesh Sharma had joined service with respondent on 20.08.2002 and was drawing regular salary of Rs.9024/- when all of sudden without any rhyme and reason the respondent stopped taking work since 28.05.2012 and he the workman was communicated that his services were no more required. According to Ld. Counsel the arbitrary removal and termination of workman is in violation of the provisions contained in Section 25 F, 25 G and 25 M of the Industrial Dispute Act. According to Ld. Counsel the termination of workman is completely illegal, unfair and against the provisions of Industrial Dispute Act. It is also argued that in fact after recruiting the workman directly the respondent again placed his employment through contractor and ultimately terminated arbitrarily. It is also argued that there is certificate which has been brought on record as Ex.WW-1/28 dated 12.07.2012 issued by HOD (HR) V. Sankaran wherein it is mentioned that workman Ajesh Sharma is working with respondent since 20.08.2002 till the date as D.G. Operator and getting monthly salary of Rs.9024/- per month. This document itself is sufficient to show that workman had worked for a period of about 10 years continuously and he cannot be terminated without following due procedures laid down in Industrial Dispute Act. It is also argued that during hearing of the present case even an application was filed for summoning certain records from the office of respondent but those records were not provided which shows that respondent management has deliberately concealed the documents showing regular service of the workman.

According to Ld. Counsel it is a fit case where an award in favor of workman may be passed by setting aside termination of services w.e.f. 28.05.2012 by the respondent and directing the respondent to reinstate the workman on the same terms and conditions which were applicable on the date of termination of services of the workman.

9. None appeared in this case on behalf of Respondent-Management to argue the case against the claim of workman. It may be mentioned that because of not taking proper steps the respondent-management has already been proceeded ex-parte.

Findings

10. On the record no written termination order either produced by workman or brought on record by respondent with written statement which was filed earlier. A perusal of written statement filed on behalf of respondent depicts that according to respondent there was no employer-employee relationship between respondent and workman and it was also denied that respondent had ever appointed or employed the workman at its establishment. Name of workman does not borne under Muster Rolls and as per respondents written statement neither there was any employer-employee relationship nor question of terminating the service arises. According to case of respondents workman was only a contract labour employed on temporary basis. However, the uncontroverted/ unrebutted documents which have been brought on record shows that the stand taken by respondent in its written statements is without any basis. To clarify my view, I may refer to a document which is Exhibit WW-1/1 which is a letter of temporary appointment dated 23.10.2006 and a certificate dated 12.07.2012 brought on record as Ex.WW-1/28. Although the initial appointment letter of October, 2006 shows that it was a temporary appointment w.e.f. 01.11.2006 for one year but the certificate dated 12.07.2012 shows that workman Ajesh Sharma has been in continuous service since 20.08.2002 and was getting salary of Rs.9024/- per month. The effect of the certificate issued by HOD of the respondent clearly establishes the fact that the workman was already in service since 20.08.2002 and temporary appointment letter has only been issued in October, 2006 to deprive workman from his legitimate dues from the respondent. Not only this, even this certificate of HOD further proves the fact that even temporary appointment continued till 12.07.2012 when this certificate was issued. Other documents which are on the record also shows that workman was also member of Employees State Insurance Scheme and there has been also contribution in that scheme. Over-night duty chart report which is Exhibit WW-1/18 and Ex.WW-1/19 so that workman was working even in month of August 2011, therefore the stand taken in written statement on behalf of respondent that it was only a contractual and purely temporary employment cannot be accepted. Whatever evidence oral and documentary brought on record on behalf of workman could not be shaken or rebutted by management. Although a cross examination of workman was done on behalf of respondent-Management. In above view of the matter from the appreciation of available documents on the record and analysis of evidence it can be held that the workman was initially appointed by the respondent and he was working since 20.08.2002 but later on by issuing a temporary appointment letter dated October, 2006 the respondent illegally attempted to deprive the workman of his legitimate dues. It is not in dispute that the respondent-company is still functional and therefore, on the pretext of no workload it cannot stop taking work from the workman who served for about 10 years with it.

11. Section 25F/25N of the Industrial Dispute Act stipulates conditions precedent to retrenchment of workman and according to this Section a workman who had worked for not less than one year in continuation, he can only be retrenched by employer after fulfilling certain conditions stipulated in that section. For Example workman is entitled for one month /3 months' notice in writing indicating reasons for retrenchment or the workman has been paid in lieu of such notice wages for the period of that notice. In the present case I have already pointed out that this workman has worked continuously with respondent for about 10 years and therefore his retrenchment without any notices assigning reason for the same is certainly in violation of Section 25 F/25 N of the I.D. Act. The Supreme Court of India reported decision *Management, W.B. India Limited Versus Jagannath AIR 1974 SC 1166* has held that even a temporary workman is retrenched has right to claim retrenchment compensation. In another decision *Ramesh Kumar Versus State of Haryana (2010) (2) SCC 543* the Hon'ble Supreme Court has held that even a casual employee if has completed 240 days of service in preceding 12 months then his service cannot be terminated without giving notice or compensation in lieu of it in terms of Section 25F of the ID Act. In the light of above decisions of Hon'ble Supreme Court it can be safely held that the arbitrary action on part of respondent in not taking work from workman Ajesh Sharma w.e.f. 28.05.2012 is unjust, unfair and illegal and in violation of Section 25 F of the Industrial Dispute Act.

12. In the light of discussions made here in above and in the facts and circumstances at the present case the reference received from Government of India Ministry of Labour vide Reference No.L-42011/18/2014-IR(DU) dated 06.05.2014 is adjudicated in favor of workman Ajesh Sharma and it is held that Ajesh Sharma the workman was appointed directly by the respondent and later on a temporary appointment was issued and his termination from services of respondent w.e.f. 28.05.2012 was unjust, unfair and illegal in violation of provisions contained in Section 25 F/25N of Industrial Dispute Act. The workman Ajesh Sharma is entitled for reinstatement on the same post and respondent is directed to take work and duty from the workman and pay back wages w.e.f. 28.05.2012 with all other consequential benefits.

13. It is therefore,

ORDERED

An award in favor of workman Ajesh Sharma is passed hereby declaring the termination of service w.e.f. 28.05.2012 as unjust, unfair and illegal. The workman Ajesh Sharma is entitled for reinstatement on the same post and respondent is directed to take work and duty from the workman and pay back wages w.e.f. 28.05.2012 with all other consequential benefits.

14. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

Dated: 17-12-2024

B. K. GAUTAM, Presiding Officer

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2295.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक, मेसर्स रक्षक सिक्यूरिटास (प्राइवेट) लिमिटेड, द्वारका, नई दिल्ली; महाप्रबंधक, मेसर्स इंटरनेशनल सेंटर फॉर ऑटोमोटिव टेक्नोलॉजी, आईएमटी मानेसर, गुडगांव, के प्रबंधन के संबंध में नियोजकों और श्री भगत सिंह, कामगार, द्वारा-महासचिव, मर्केटाइल कर्मचारी संघ, अमर नगर, फरीदाबाद, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-1, चंडीगढ़, पंचाट (संदर्भ संख्या 92/2014) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. एल – 42011-19-20214-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2295.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 92/2014) of the **Central Government Industrial Tribunal cum Labour Court -I, Chandigarh**, as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Director, M/s Rakshak Securities (Pvt) Ltd., Dwarka, New Delhi ;The General Manager, M/s International Centre for Automotive Technology, IMT Manesar, Gurgaon, and Shri Bhagat Singh, Worker, through- The General Secretary, Mercantile Employees Association, Amar Nagar, Faridabad**, which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. L-42011-19-20214-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.**

Presiding Officer: Sh. Brajesh Kumar Gautam,

ID No.92 /2014

Registered On:- 22.05.2014

Bhagat Singh S/o Sri Bishan Singh, Ex Workman C/o Shri Hublal Yadav, General Secretary, Mercantile Employees Association, H.No.530, Near Prem Public School, Dayal Nagar, PO: Amar Nagar, Faridabad-121003.

.....**Workman**

Versus

1. The Director M/s Rakshak Securities (Pvt) Ltd., T-5, Plot No.12, Manish Plaza-111, Sector 10, Dwarka, New Delhi-110075.
2. The General Manager, M/s International Centre for Automotive Technology, Plot No.26, Sec 3, HSIDC, IMT Manesar, Gurgaon-122050.

.....**Respondents**

Counsels for the Parties:

Sh. Shashi Kumar Yadav AR for Workman

None for Management (already ex-parte)

Judgment reserved on 04th December, 2024

Judgment/Award Pronounced on 17th December, 2024

JUDGMENT/ AWARD

1. Central Government vide Notification No. L-42011/19/2014-IR(DU) dated 05.05.2014, under clause (d) of Sub-Section (1) sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), has referred the following Industrial dispute for adjudication to this Tribunal:

‘Whether the action of the management of the General Manager, M/s International Centre for Automotive Technology (ICAT), IMT Manesar, Gurgaon for giving appointment directly and later on deployed through contractor and thereafter termination of services of Shri Bhagat Singh S/o Sh. Bishan Singh Ex Workman w.e.f. 28.05.2012 is just, fair and legal? If not, to what relief the workman is entitled to and from which date?’

2. It may be mentioned that after receipt of above said reference, notice to workman was issued for filing statement of claim with relevant documents, list of reliance and witnesses but no such claim was filed by the workman and by order dated 03.11.2014 the then Presiding Officer of this CGIT-cum-Labour Court-I, Chandigarh, dismissed the reference for want of prosecution. However, Hon’ble Punjab & Haryana High Court vide order dated 29.02.2016 passed in CWP No.25001 of 2015 was pleased to set aside order dated- 03.11.2014 and directed this Court to decide the reference on merit and thereafter, the workman Bhagat Singh filed his claim statement on 22.05.2017.

3. **The case of Workman-** According to the claim statement, the workman Bhagat Singh was directly appointed by M/s Automotive Research Association of India Company as Office Attendant on 17.08.2002. In 2007 the name of the company was changed as M/s International Centre for Automotive Technology (I.C.A.T.), Plot No.26, Sector 3, HSIDC, IMT Manesar, Gurgaon. In this company more than one thousand workers are working. The last drawn salary of the applicant/ workman was Rs.8267/- per month. The work and conduct of the applicant/ workman remained always satisfactory, he never gave a chance of complaint. It is stated that the respondent/ management had not given any statutory benefits and legal aid. The respondent/management also got workman’s signature on blank papers, vouchers and forms on the pretext that these signed papers are required for Pension Scheme. The Respondent/ Management did not permit the applicant/ workman on duty w.e.f. 28.05.2012 by saying that work load was too less and as soon as the work load would increase he would be called back with continuity of service and full back wages. But the Respondent/ Management did not call for duty till date and even Respondent/ Management did not pay wages including over time for the month of May, 2012. The applicant/ workman had continually approached to the respondent/ management for his duty but the Respondent/ Management gave only promises months after months and finally they denied. The applicant/ workman had worked for more than 240 days in each years of his service from 17.08.2002 to 27.05.2012 and there is no break in his service during this period. The action of the Respondent/ Management was against the provision of Section 25F, 25N and 25G of the Industrial Disputes Act, 1947. It is stated that the Respondent / Management terminated the services of the applicant-workman without paying him his earned wages and other dues. The act of the Respondent/ Management of the termination of the services of the applicant/ workman is totally illegal, arbitrary and in violation of the provisions laid down in the I.D. Act and against the principle of natural justice. It has been prayed that the services of the applicant/ workman be ordered to be reinstated with full back wages and continuity of services alongwith other benefits.

4. **The case of Respondent-** In response to the notices issued upon respondent a written statement has been filed on behalf of respondent, but same has been shown purported to be filed on behalf of Respondent No.2. It may be noted that in the present dispute there is no respondent No.2 arrayed as a party in the claim statement and an objection to this effect has been raised in the rejoinder/ replication filed on behalf of workman.

5. **The case of respondent which may be stated in brief** is that workman was never appointed or employed by the respondent and there was no employer-employee relationship between the replying respondent and the workman. According to respondent, names of workman employed are borne on muster rolls and other records of the management but the name of workman does not appear anywhere in such record. It is further case of respondent that in absence of any employee-employer relationship question of terminating the service does not arise. It is also stated that workman has not approached the Court with clean hands and has concealed the certain material facts. No Industrial Dispute exists between the workman and the replying respondent. According to further case of respondent the workman was engaged on contract by contractor M/s Rakshak Securities Private Limited under the provisions of Contract Labour (R&A Act 1970). It has been further stated that said contractor has not been made a party to present case intentionally in the claim statement filed by workman and therefore the reference is not maintainable. While giving para wise reply to the claim statement, the respondent has denied that workman was ever appointed and worked with replying respondent. It is stated that workman was employed on temporary basis. It is also denied that replying respondent did not provide statutory benefits to workman. It is denied by the respondent that since 28.05.2012 management stopped taking work from the workman and assured that when work load could increase he will be called back to the service. It has been denied by replying respondent that workman had ever approached respondent for his duty and that he worked earlier for more than 240 days from 17.08.2002 to 27.05.2012 without any

break in the service. It is also case of respondent that there is no violation of any provisions contained in Section 25 F, 25 N & 25 G of the Industrial Dispute Act, 1947. According to the respondent the reference is bad in law petitioner is not a workman employed by respondent management and he is not entitled to any relief.

6. **Issue to be adjudicated:** As already stated herein above that present industrial dispute case has arisen on a Reference, the point/issue which requires adjudication in the present case is the question itself referred under Section 10 of the ID Act as-

“Whether the action of the management of the General Manager, M/s International Centre for Automotive Technology (ICAT), IMT Manesar, Gurgaon for giving appointment directly and later on deployed through contractor and thereafter termination of services of Shri Bhagat Singh S/o Sh. Bishan Singh Ex Workman w.e.f. 28.05.2012 is just, fair and legal? If not, to what relief the workman is entitled to and from which date?”

7. **Evidence of parties:** During hearing of the case the workman got examined himself as a witness and several documents have been brought on the record which are marked as Ex WW-1/1 to Ex WW-1/27. These documents are- appointment letter, temporary appointment as Mali, Salary Slips, skill test certificates/ competency test certificates, copy of EPF membership, Employees' Pension Scheme and Contribution, Income Tax Form 16, I.D. etc. (These documents are not marked in series nature wise but are marked in haphazard way while recording the evidence of workman).

8. On behalf of management no evidence has been adduced, despite opportunity given and Management was proceeded ex-parte when it left taking proper step in the present case.

9. **Submission of the Parties-** It has been submitted on behalf of Workman that Bhagat Singh had joined service with respondent on 17.08.2002 and was drawing regular salary of Rs.8267/- when all of sudden without any rhyme and reason the respondent stopped taking work since 28.05.2012 and he the workman was communicated that his services were no more required. According to Ld. Counsel the arbitrary removal and termination of workman is in violation of the provisions contained in Section 25 F, 25 G and 25 M of the Industrial Dispute Act. According to Ld. Counsel the termination of workman is completely illegal, unfair and against the provisions of Industrial Dispute Act. It is also argued that infact after recruiting the workman directly the respondent again placed his employment through contractor and ultimately terminated arbitrarily. It is also argued that there is certificate which has been brought on record as Ex.WW-1/27 dated 28.12.2011 issued by HOD (HR) V. Sankaran wherein it is mentioned that workman Bhagat Singh is working with respondent since 17.08.2002 till the date as Office Attendant and getting monthly salary of Rs.8267/- per month. This document itself is sufficient to show that workman had worked for a period of about 9 years continuously and he cannot be terminated without following due procedures laid down in Industrial Dispute Act. It is also argued that during hearing of the present case even an application was filed for summoning certain records from the office of respondent but those records were not provided which shows that respondent management has deliberately concealed the documents showing regular service of the workman. According to Ld. Counsel it is a fit case where an award in favor of workman may be passed by setting aside termination of services w.e.f. 28.05.2012 by the respondent and directing the respondent to reinstate the workman on the same terms and conditions which were applicable on the date of termination of services of the workman.

10. None appeared in this case on behalf of Respondent-Management to argue the case against the claim of workman. It may be mentioned that because of not taking proper steps the respondent-management has already been proceeded ex-parte.

Findings

11. On the record no written termination order either produced by workman or brought on record by respondent with written statement which was filed earlier. A perusal of written statement filed on behalf of respondent depicts that according to respondent there was no employer-employee relationship between respondent and workman and it was also denied that respondent had ever appointed or employed the workman at its establishment. Name of workman does not borne under Muster Rolls and as per respondents written statement neither there was any employer-employee relationship nor question of terminating the service arises. According to case of respondents workman was only a contract labour employed on temporary basis. However, the uncontroverted/ unrebutted documents which have been brought on record shows that the stand taken by respondent in its written statements is without any basis. To clarify my view, I may refer to a document which is Exhibit WW-1/2 which is a letter of temporary appointment letter dated 23.10.2006 and a certificate dated 28.12.2011 brought on record as Ex.WW-1/27. Although the initial appointment letter of October, 2006 shows that it was a temporary appointment w.e.f. 01.11.2006 for one year but the certificate dated 28.12.2011 shows that workman Bhagat Singh has been in service since 17.08.2002 and was getting salary of Rs.8267/- per month. The effect of the certificate issued by HOD of the respondent clearly establishes the fact that the workman was already in service since 17.08.2002 and temporary appointment letter has only been issued in October, 2006 only to deprive workman from his legitimate dues from the respondent. Not only this, even this certificate of HOD further proves the fact that even temporary appointment continued till 28.12.2011 when this certificate was issued. Other documents which are on the record also shows that workman was also member of Employees State

Insurance Scheme and there has been also contribution in that scheme. Therefore the stand taken in written statement on behalf of respondent that it was only a contractual and purely temporary employment cannot be accepted. Whatever evidence oral and documentary brought on record on behalf of workman could not be shaken or rebutted by management. Although a cross examination of workman was done on behalf of respondent-Management. In above view of the matter from the appreciation of available documents on the record and analysis of evidence it can be held that the workman was initially appointed by the respondent and he was working since 17.08.2002 but later on by issuing a temporary appointment letter dated December, 2006 the respondent illegally attempted to deprive the workman of his legitimate dues. It is not in dispute that the respondent-company is still working and therefore, on the pretext of no workload it cannot stop taking work from the workman who served for about 10 years with it.

12. Section 25F/25N of the Industrial Dispute Act stipulates conditions precedent to retrenchment of workman and according to this Section a workman who had worked for not less than one year in continuation, he can only be retrenched by employer after fulfilling certain conditions stipulated in that section. For Example workman is entitled for one month notice in writing indicating reasons for retrenchment or the workman has been paid in lieu of such notice wages for the period of that notice. In the present case I have already pointed out that this workman has worked continuously with respondent for about 9 years and therefore his retrenchment without any notices assigning reason for the same is certainly in violation of Section 25 F. The Supreme Court of India reported decision *Management, W.B. India Limited Versus Jagannath AIR 1974 SC 1166* has held that even a temporary workman is retrenched has right to claim retrenchment compensation. In another decision *Ramesh Kumar Versus State of Haryana (2010) (2) SCC 543* the Hon'ble Supreme Court has held that even a casual employee if has completed 240 days of service in preceding 12 months then his service cannot be terminated without giving notice or compensation in lieu of it in terms of Section 25 F of the ID Act. In the light of above decisions of Hon'ble Supreme Court it can be safely held that the arbitrary action on part of respondent in not taking work from workman Bhagat Singh w.e.f. 28.05.2012 is unjust, unfair and illegal and in violation of Section 25 F of the Industrial Dispute Act.

13. In the light of discussions made here in above and in the facts and circumstances at the present case the reference received from Government of India Ministry of Labour vide Reference No.L-42011/19/2014-IR(DU) dated 05.05.2014 is adjudicated in favor of workman Bhagat Singh and it is held that Bhagat Singh the workman was appointed directly by the respondent and later on a temporary appointment was issued and his termination from services of respondent w.e.f. 28.05.2012 was unjust, unfair and illegal in violation of provisions contained in Section 25F/25N of Industrial Dispute Act. The workman Bhagat Singh is entitled for reinstatement on the same post and respondent is directed to take work and duty from the workman and pay back wages w.e.f. 28.05.2012 with all other consequential benefits.

14. It is therefore,

ORDERED

An award in favor of workman Bhagat Singh is passed hereby declaring the termination of service w.e.f. 28.05.2012 as unjust, unfair and illegal. The workman Bhagat Singh is entitled for reinstatement on the same post and respondent is directed to take work and duty from the workman and pay back wages w.e.f. 28.05.2012 with all other consequential benefits.

15. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

Dated: 17-12-2024

B. K. GAUTAM, Presiding Officer

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2296.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक, मैसर्स. इंडस टावर लिमिटेड, पुणे; निदेशक, मैसर्स. टीमलीज़ सर्विसेज लिमिटेड, चर्च रोड, पुणे, के प्रबंधतंत्र के संबद्ध नियोजकों और अध्यक्ष, इंडस मोबाइल टावर तकनीकी कर्मचारी संगठन, औरंगाबाद, के बीच अनुबंध में निर्दिष्ट औद्योगिक न्यायाधिकरण, औरंगाबाद, पंचाट (संदर्भ संख्या 02/2018, [सीएनआर नं. MHIC20-001094-2016]) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. एल - 40011-137-2017-आईआर (डीयू)]

दिलीप कुमार, अवसर सचिव

New Delhi, the 31st December, 2024

S.O. 2296.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 02/2018, [CNR NO.MHIC20-001094-2016]) of the Industrial Tribunal, Aurangabad, as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Director, M/s. Indus Tower Ltd., Pune; The Director, M/s. TeamLease Services Ltd., Church Road, Pune, and The President, Indus Mobile Tower Technical Karmachari Sanghatana, Aurangabad**, which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. L-40011-137-2017-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

EXH. O-8

IN THE INDUSTRIAL TRIBUNAL, MAHARASHTRA,

AT : AURANGABAD.

REFERENCE (IT) NO. 2 OF 2018

[CNR NO.MHIC20-001094-2016]

ADJUDICATION BETWEEN

[1] The Director,

Indus Tower Pvt. Ltd.

E Crore, Office No.2010, 2nd Floor,

Marvbel Edge, Viman Nagar, Pune

[2] The Director,

M/s Teamlease Services Pvt. Ltd.

Office 509, 5th Floor, Nucleus MLL, 1,

Church Road, Pune.

...

FIRST PARTY

AND

The President,

Indus Mobile Tower Technical Karmachari Sanghatana

C/o-Narayan V. Ghule, 75/5,

K-Sector, Pawan Nagar,

N-9, CIDCO, Aurangabad

[Shri. Annasaheb Balu Kokate, Represented by the Union]

SECOND PARTY

CORAM : S. S. MAUDEKAR, PRESIDING OFFICER.

Advocates : Mr. Y. I Thole, Ld. Advocate for First Party no.1.

Mr.N.R. Gadekar, Ld. Advocate for First Party no.2.

AWARD

[Passed on 20/07/2024]

The Deputy Director as per Order No.L-40011/137/2017 – IR (DU), Government of India / Bharat Sarkar/ Ministry of Labour / Shram Mantralaya, New Delhi dated 15-02-2018 referred the dispute between the parties for adjudication under Section 12(5) of the Industrial Disputes Act, 1947 in respect of the Schedule mentioned therein.

2] After receipt of the reference, notices were duly served to the parties vide Exh O-4 to O-5. From the record, it appears that the First party nos.1 & 2 have appeared in the matter through their respective learned advocates. The second party failed to appear in the matter in spite of service of notice. Hence, fresh notice was served as per Exh. O-6 & O-7 to the second party . It appears that in spite of receipt of notice, the second party neither appeared nor filed its statement of claim since 26-02-2018.

3] Today also, the second party was absent when called at 5.45 p. m. Orders was passed on Exh. O-1 on 26-03-2024, but it seems that the second party is not interested in proceeding with the matter. Hence, it is not proper to keep it pending. As such, the Reference is disposed of for want of prosecution. Hence, the following Award :-

ORDER

- 1] The Reference is answered in the negative and disposed of for want of prosecution.
- 2] Copies of the Award be forwarded to the Deputy Director, Government of India / Bharat Sarkar/ Ministry of Labour / Shram Mantralaya, New Delhi for its publication.

[S. S. MAUDEKAR , Presiding Officer

Place:Aurangabad

Date : 20/07/2024

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2297.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक, मैसर्स. इंडस टावर लिमिटेड, पुणे; निदेशक, मैसर्स. टीमलीज़ सर्विसेज लिमिटेड, चर्च रोड, पुणे, के प्रबंधन के संबद्ध नियोजकों और अध्यक्ष, इंडस मोबाइल टावर तकनीकी कर्मचारी संगठन, औरंगाबाद, के बीच अनुबंध में निर्दिष्ट औद्योगिक न्यायाधिकरण, औरंगाबाद, पंचाट (संदर्भ संख्या 03/2018, [सीएनआर नं. MHIC20-001095-2016]) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. एल – 40011-125-2017-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2297.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 03/2018, [CNR NO.MHIC20-001095-2016]) of the Industrial Tribunal, Aurangabad, as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Director, M/s. Indus Tower Ltd., Pune ; The Director, M/s. TeamLease Services Ltd., Church Road, Pune, and The President, Indus Mobile Tower Technical Karmachari Sanghatana, Aurangabad**, which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. L-40011-125-2017-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

EXH. O-8

IN THE INDUSTRIAL TRIBUNAL, MAHARASHTRA, AT : AURANGABAD.

REFERENCE (IT) NO. 3 OF 2018

[CNR NO.MHIC20-001095-2016]

ADJUDICATION BETWEEN

[1] The Director,

Indus Tower Pvt. Ltd.

E Crore, Office No.2010, 2nd Floor,

Marvbel Edge, Viman Nagar, Pune

[2] The Director,

M/s Teamlease Services Pvt. Ltd.

Office 509, 5th Floor, Nucleus MLL, 1,

Church Road, Pune.

...

FIRST PARTY

AND

The President,
Indus Mobile Tower Technical Karmachari Sanghatana,
C/o-Narayan V. Ghule, 75/5,
K-Sector, Pawan Nagar,
N-9, CIDCO, Aurangabad
[Shri. Hemant Dhandge, Represented by the Union]

... **SECOND PARTY**

CORAM : S. S. MAUDEKAR, PRESIDING OFFICER.

Advocates : Mr. Y. I Thole, Ld. Advocate for First Party no.1.

Mr.N.R. Gadekar, Ld. Advocate for First Party no.2.

AWARD

[Passed on 20/07/2024]

The Deputy Director as per Order No.L-40011/125/2017 – IR (DU), Government of India / Bharat Sarkar/ Ministry of Labour / Shram Mantralaya, New Delhi dated 15-02-2018 referred the dispute between the parties for adjudication under Section 12(5) of the Industrial Disputes Act, 1947 in respect of the Schedule mentioned therein.

2] After receipt of the reference, notices were duly served to the parties vide Exh O-4 to O-5. From the record, it appears that the First party nos.1 & 2 have appeared in the matter through their respective learned advocates. The second party failed to appear in the matter in spite of service of notice. Hence, fresh notice was served as per Exh.O-6 & O-7 to the second party . It appears that in spite of receipt of notice, the second party neither appeared nor filed its statement of claim since 26-02-2018.

3] Today also, the second party was absent when called at 5.45 p. m. Orders was passed on Exh. O-1 on 26-03-2024, but it seems that the second party is not interested in proceeding with the matter. Hence, it is not proper to keep it pending. As such, the Reference is disposed of for want of prosecution. Hence, the following Award :-

ORDER

- 1] The Reference is answered in the negative and disposed of for want of prosecution.
- 2] Copies of the Award be forwarded to the Deputy Director, Government of India / Bharat Sarkar/ Ministry of Labour / Shram Mantralaya, New Delhi for its publication.

S. S. MAUDEKAR, Presiding Officer

Place:Aurangabad

Date : 20/07/2024

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2298.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक, मैसर्स. इंडस टावर लिमिटेड, पुणे; निदेशक, मैसर्स. टीमलीज़ सर्विसेज लिमिटेड, चर्च रोड, पुणे, के प्रबंधन के संबद्ध नियोजकों और अध्यक्ष, इंडस मोबाइल टावर तकनीकी कर्मचारी संगठन, औरंगाबाद, के बीच अनुबंध में निर्दिष्ट औद्योगिक न्यायाधिकरण, औरंगाबाद, पंचाट (संदर्भ संख्या 04/2018, [सीएनआर नं. MHIC20-001096-2016]) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. एल – 40011-126-2017-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2298.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 04/2018, [CNR NO.MHIC20-001096-2016]) of the Industrial Tribunal, Aurangabad, as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Director, M/s. Indus Tower Ltd., Pune; The Director, M/s. TeamLease Services Ltd., Church Road, Pune, and The President, Indus Mobile Tower Technical Karmachari Sanghatana, Aurangabad**, which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. L-40011-126-2017-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

EXH. O-8

IN THE INDUSTRIAL TRIBUNAL, MAHARASHTRA, AT : AURANGABAD.

REFERENCE (IT) NO. 4 OF 2018

[CNR NO.MHIC20-001096-2016]

ADJUDICATION BETWEEN

[1]The Director,

Indus Tower Pvt. Ltd.

E Crore, Office No.2010, 2nd Floor,

Marvbel Edge, Viman Nagar, Pune

[2] The Director,

M/s Teamlease Services Pvt. Ltd.

Office 509, 5th Floor, Nucleus MLL, 1,

Church Road, Pune.

...

FIRST PARTY

AND

The President,

Indus Mobile Tower Technical Karmachari Sanghatana,

C/o-Narayan V. Ghule, 75/5,

K-Sector, Pawan Nagar,

N-9, CIDCO, Aurangabad

[Shri. Pravin Jagtap, Represented by the Union]

...

SECOND PARTY

CORAM : S. S. MAUDEKAR, PRESIDING OFFICER.

Advocates : Mr. Y. I Thole, Ld. Advocate for First Party no.1.

Mr.N.R. Gadekar, Ld. Advocate for First Party no. 2.

AWARD

[Passed on 20/07/2024]

The Deputy Director as per Order No.L-40011/126/2017 – IR (DU), Government of India / Bharat Sarkar/ Ministry of Labour / Shram Mantralaya, New Delhi dated 15-02-2018 referred the dispute between the parties for adjudication under Section 12(5) of the Industrial Disputes Act, 1947 in respect of the Schedule mentioned therein.

2] After receipt of the reference, notices were duly served to the parties vide Exh O-4 to O-5. From the record, it appears that the First party nos.1 & 2 have appeared in the matter through their respective learned advocates. The second party failed to appear in the matter in spite of service of notice. Hence, fresh notice was served as per Exh.O-6 & O-7 to the second party . It appears that in spite of receipt of notice, the second party neither appeared nor filed its statement of claim since 26-02-2018.

3] Today also, the second party was absent when called at 5.45 p. m. Orders was passed on Exh. O-1 on 26-03-2024, but it seems that the second party is not interested in proceeding with the matter. Hence, it is not proper to keep it pending. As such, the Reference is disposed of for want of prosecution. Hence, the following Award :-

ORDER

- 1] The Reference is answered in the negative and disposed of for want of prosecution.
- 2] Copies of the Award be forwarded to the Deputy Director, Government of India / Bharat Sarkar/ Ministry of Labour / Shram Mantralaya, New Delhi for its publication.

S. S. MAUDEKAR , Presiding Officer

Place:Aurangabad

Date : 20/07/2024.

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2299.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक, मैसर्स. इंडस टावर लिमिटेड, पुणे; निदेशक, मैसर्स. टीमलीज सर्विसेज लिमिटेड, चर्च रोड, पुणे, के प्रबंधन के संबद्ध नियोजकों और अध्यक्ष, इंडस मोबाइल टावर तकनीकी कर्मचारी संगठन, औरंगाबाद, के बीच अनुबंध में निर्दिष्ट औद्योगिक न्यायाधिकरण, औरंगाबाद, पंचाट (संदर्भ संख्या 05/2018, [सीएनआर नं. MHIC20-001097-2016]) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. एल - 40011-121-2017-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2299.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 05/2018, [CNR NO.MHIC20-001097-2016]) of the Industrial Tribunal, Aurangabad, as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Director, M/s. Indus Tower Ltd., Pune ; The Director, M/s. TeamLease Services Ltd., Church Road, Pune, and The President, Indus Mobile Tower Technical Karmachari Sanghatana, Aurangabad**, which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. L-40011-121-2017-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

EXH. O-8

IN THE INDUSTRIAL TRIBUNAL, MAHARASHTRA, AT : AURANGABAD.

REFERENCE (IT) NO. 5 OF 2018

[CNR NO.MHIC20-001097-2016]

ADJUDICATION BETWEEN

[1]The Director,

Indus Tower Pvt. Ltd.

E Crore, Office No.2010, 2nd Floor,

Marvbel Edge, Viman Nagar, Pune

[2] The Director,

M/s Teamlease Services Pvt. Ltd.

Office 509, 5th Floor, Nucleus MLL, 1,

Church Road, Pune.

...

FIRST PARTY

AND

The President,
Indus Mobile Tower Technical Karmachari Sanghatana
C/o-Narayan V. Ghule, 75/5,
K-Sector, Pawan Nagar,
N-9, CIDCO, Aurangabad
[Shri. Sachin Vasant Pawar, Represented by the Union]

...

SECOND PARTY**CORAM : S. S. MAUDEKAR, PRESIDING OFFICER.**

Advocates : Mr. Y. I Thole, Ld. Advocate for First Party no.1.

Mr.N.R. Gadekar, Ld. Advocate for First Party no.2.

AWARD

[Passed on 20/07/2024]

The Deputy Director as per Order No.L-40011/121/2017 – IR (DU), Government of India / Bharat Sarkar/ Ministry of Labour / Shram Mantralaya, New Delhi dated 15-02-2018 referred the dispute between the parties for adjudication under Section 12(5) of the Industrial Disputes Act, 1947 in respect of the Schedule mentioned therein.

2] After receipt of the reference, notices were duly served to the parties vide Exh O-4 to O-5. From the record, it appears that the First party nos.1 & 2 have appeared in the matter through their respective learned advocates. The second party failed to appear in the matter in spite of service of notice. Hence, fresh notice was served as per Exh.O-6 & O-7 to the second party. It appears that in spite of receipt of notice, the second party neither appeared nor filed its statement of claim since 26-02-2018.

3] Today also, the second party was absent when called at 5.45 p. m. Orders was passed on Exh. O-1 on 26-03-2024, but it seems that the second party is not interested in proceeding with the matter. Hence, it is not proper to keep it pending. As such, the Reference is disposed of for want of prosecution. Hence, the following Award :-

ORDER

- 1] The Reference is answered in the negative and disposed of for want of prosecution.
- 2] Copies of the Award be forwarded to the Deputy Director, Government of India / Bharat Sarkar/ Ministry of Labour / Shram Mantralaya, New Delhi for its publication.

S. S. MAUDEKAR, Presiding Officer

Place:Aurangabad

Date : 20/07/2024.

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2300.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय जीवन बीमा निगम के प्रबंधतंत्र के संबद्ध नियोजकों और श्री बनवारी लाल वर्मा के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर, पंचाट (रिफरेन्स न.- 15/2016) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. एल – 17012-04-2016-आईआर (एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2300.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference No. 15/2016**) of the **Central Government Industrial Tribunal cum Labour Court, Jaipur** as shown in the Annexure, in the Industrial dispute between the employers in

relation to **Bhartiya Jeevan Bima Nigam** and **Shri Banwari Lal Verma** which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. L-17012-04-2016-IR (M)]

DILIP KUMAR, Under Secy.

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पीठासीन अधिकारी

राधा मोहन चतुर्वेदी

l h-th-vkbZVh- idj.k l a& 15@2016

Reference No. L-17012/04/2016-IR (M)

Dated: 14.03.2016

श्री बनवारी लाल वर्मा पुत्र श्री हनुमान राम वर्मा, निवासी— मु.पो सिरौही, ढानी तेतरवालों की, तह.— नीम का थाना, जिला— सीकर (राज.)।

.....प्रार्थी

cuke

1. सीनियर डिवीजनल मैनेजर, भारतीय जीवन बीमा निगम, जीवन प्रकाश, भवानी सिंह रोड, अम्बेडकर सर्किल जयपुर, राजस्थान 302005
2. शाखा प्रबंधक, भारतीय जीवन बीमा निगम, 555, वार्ड नम्बर 3, नीम का थाना, जिला— सीकर, राजस्थान।

.....अप्रार्थीगण/विपक्षी

उपस्थित:—

: श्री कुणाल रावत, अभिभाषक — प्रार्थी।

: श्री जे. के. अग्रवाल, अभिभाषक —विपक्षीगण।

%vf/kU.k %

fnukd %0-10-2024

1. श्रम मंत्रालय भारत सरकार नई दिल्ली द्वारा दिनांक 14.03.2016 को औद्योगिक विवाद अधिनियम 1947 (जिसे आगे मात्र अधिनियम कहा जावेगा) की धारा 10 (1) (डी) व 2A के अन्तर्गत प्रदत्त शक्तियों के अनुसरण में निम्नांकित औद्योगिक विवाद न्यायनिर्णयन हेतु इस अधिकरण को संदर्भित किया गया :—

“D; k i ca/ku Hkkjrh; thou chek fuxe] 'kk[kk dk; ky;] uhe dk Fkkuk] l hdj dk dedkj Jh cuokjh yky oek] prfkZ Js kh deokjh dks fnukd 17-07-1996 ds }kjk ukdjh l s fudkyk tkuk U; k; kfpr , oa U; k; l x r gS ; fn ugha rks dedkj fd l vurf'k dks i kus dk vf/kdkjh g? ”

2. प्रार्थी की ओर से दिनांक 25.05.2016 को दावे का अभिकथन प्रस्तुत करते हुये यह कहा है कि प्रार्थी को विपक्षी संख्या-2 के यहाँ पानी पिलाने के लिये चतुर्थ श्रेणी कर्मचारी के रूप में दिनांक 23.04.1996 को नियुक्त किया गया। प्रार्थी ने दिनांक 16.07.1996 तक कार्य किया है। किंतु दिनांक 17.07.1996 को प्रार्थी को अकारण सेवामुक्त कर दिया गया। प्रार्थी अपनी सेवामुक्ति को अधिनियम की धारा 25 F का पालन विपक्षी द्वारा न किये जाने के आधार पर अवैध मानता है। प्रार्थी को सेवामुक्त करने के उपरान्त विपक्षी द्वारा अन्य श्रमिकों को भर्ती किया गया। इस प्रकार अधिनियम की धारा 25 G, व H तथा नियम 77, 78 की अवहेलना की गई। प्रार्थी का यह भी कथन है कि माननीय उच्चतम न्यायालय द्वारा तमिलनाडू टर्मिनेटिड फुलटाईम टेम्परेरी एल.आई.सी. एम्पलाईज एसोसियेशन बनाम एल.आई.सी. ऑफ इंडिया (जिसे आगे मात्र तमिलनाडू प्रकरण कहा जावेगा) के प्रकरण में आदेश दिया गया है कि जिन श्रमिकों ने 80 दिन से अधिक कार्य किया है उन्हें नियमित किया जावे। किंतु नियमित करने के बजाय प्रार्थी को सेवा मुक्त कर दिया गया। विपक्षीगण का यह कृत्य अनफेयर लेबर प्रेक्टिस है। अतः वाद प्रस्तुत कर निवेदन है कि प्रार्थी की सेवामुक्ति दिनांक 17.07.1996 को अवैध घोषित करते हुये प्रार्थी को सेवा की निरंतरता तथा विगत वेतन परिलाभों सहित पुनः काम पर लिया जावे।
3. विपक्षीगण ने दिनांक 21.07.2016 को वादोत्तर प्रस्तुत करते हुये यह कहा है कि प्रार्थी ने 19 वर्ष पश्चात बनावटी एवं झूठा प्रकरण प्रस्तुत किया है। विपक्षी से यह अपेक्षा नहीं की जानी चाहिये कि एक दैनिक वेतन भोगी कर्मचारी का अभिलेख 19 वर्ष तक संधारित करे। विपक्षीगण की एक निश्चित, भर्ती की पद्धति है। नियुक्ति पत्र के अभाव में प्रार्थी का विपक्षी के अधीन कार्यरत होना स्वीकार नहीं है। 85 दिन की निश्चित अवधि के लिये नियुक्ति होने पर, नियुक्ति निश्चित अवधि समाप्त होने पर सेवा स्वतः ही समाप्त हो जाती है। अधिनियम की धारा 2 (oo) (bb) के अंतर्गत यह

सेवामुक्ति छंटनी नहीं है। धारा 25 F के प्रावधानों को प्रभावी करने के लिये आवश्यक है कि सेवामुक्ति से पूर्व 240 दिन प्रार्थी ने कार्य किया हो। इस अधिकरण का क्षेत्राधिकार रेफरेंस आदेश की शर्तों से निर्धारित होता है। रेफरेंस से परे जाकर अधिकरण कोई निर्णय नहीं कर सकता। अतः वाद निरस्त किया जावे।

4. दिनांक 02.03.2017 को प्रार्थी ने विपक्षीगण के वादोत्तर पर अतिरिक्त कथन करते हुये विपक्षी के अभिवचनों को अस्वीकार किया है।
5. प्रार्थी ने अपने साक्ष्य में स्वयं प्रार्थी बनवारी लाल वर्मा को परीक्षित किया और प्रलेखीय साक्ष्य में प्रदर्श W-1 और प्रदर्श W-2, प्रलेखों को प्रदर्शित किया।
6. विपक्षीगण ने अपने साक्ष्य में कमल पाटनी, प्रशासनिक अधिकारी को परीक्षित किया और कोई प्रलेख प्रदर्शित नहीं किया गया।
7. दिनांक 17.09.2024 को मैंने उभय पक्ष के मौखिक तर्क सुनें, उपलब्ध साक्ष्य का परिशीलन किया तथा प्रस्तुत किये गये न्यायिक दृष्टांतों में प्रतिपादित विधि पर मनन किया।
8. प्रार्थी का यह तर्क है कि यद्यपि प्रार्थी ने विपक्षीगण के अधीन 240 दिन से अधिक कार्य नहीं किया है किंतु माननीय सर्वोच्च न्यायालय द्वारा पारित किये गये निर्णय तमिलनाडू प्रकरण में माननीय उच्चतम न्यायालय ने यह निर्देश दिया है कि जिन श्रमिकों ने विपक्षीगण के अधीन 80 दिन से अधिक कार्य किया है उन्हें नियमित कर दिया जावे। इस संबंध में माननीय उच्चतम न्यायालय के पारित निर्णय के उपरांत दिये गये निर्देश के अनुपालन में पीठासीन अधिकारी सी.जी.आई.टी. नं.-1, नई दिल्ली द्वारा ऐसे योग्य कर्मकारों की सूची प्रतिवेदन सहित माननीय उच्चतम न्यायालय को प्रेषित की गई थी। इस सूची में कम संख्या-460 पर प्रार्थी का नाम योग्य कर्मकार के रूप में अंकित है। इसलिये विपक्षीगण के प्रदर्श W&2, पत्र के आधार पर, चूंकि प्रार्थी ने दिनांक 23.04.1996 से 16.07.1996 तक 85 दिन कार्य पूरा कर लिया है। प्रार्थी को विपक्षीगण के अधीन सेवा में अवशोषित करते हुये (Absorb) नियुक्ति दी जानी चाहिये। उन्होंने अपने तर्क के समर्थन में तमिलनाडू टर्मिनेटिड फुलटाईम टेम्परेरी एल.आई.सी. एम्पलाईज एसोसियेशन बनाम एल.आई.सी. ऑफ इंडिया सिविल अपील नं. 6950/2009 निर्णय तिथि 18.03.2015 (सुप्रीम कोर्ट) जिसके साथ पीठासीन अधिकारी सी.जी.आई.टी. नं.-1, नई दिल्ली के प्रतिवेदन एवं कर्मकारों की सूची संलग्न की गई थी, प्रस्तुत किया है।
9. अभिभाषक विपक्षीगण का यह तर्क है कि इस अधिकरण को केन्द्र सरकार द्वारा प्रेषित किये गये रेफरेंस आदेश की शर्तों से परे जाकर किसी बिन्दु का न्यायनिर्णय करने का क्षेत्राधिकार नहीं है। रेफरेंस आदेश में प्रार्थी को सेवा से निकाले जाने का बिन्दु जो कि दावे के अभिकथन के अनुसार अधिनियम की धारा 25 F, G और H तथा नियम 77, 78 की अनुपालना न होने से संबंधित है, तक ही इस अधिकरण को क्षेत्राधिकार प्राप्त है। रेफरेंस में यह उल्लिखित नहीं है कि प्रार्थी को 85 दिन के कार्य करने के आधार पर विपक्षीगण द्वारा सेवा में अवशोषित (Absorb) न किया जाना उचित है या नहीं। इसलिये माननीय उच्चतम न्यायालय द्वारा पारित निर्णय जिसे प्रार्थी ने आधार बनाया है अधिकरण द्वारा अनुकरणीय नहीं है। प्रार्थी ने अपने साक्ष्य से 240 दिन कार्य करना तथा उससे कनिष्ठ किसी व्यक्ति को नियोजन में रखना प्रमाणित ही नहीं किया है। प्रार्थी की नियुक्ति मात्र 85 दिन की निश्चित अवधि के लिये की गई थी जिसके अवसान पर प्रार्थी की सेवा स्वतः समाप्त हो गई। अधिनियम की धारा 2 (oo) (bb) के अंतर्गत सेवामुक्ति छंटनी की परिभाषा में नहीं आती है। इसलिये प्रार्थी को धारा 25 F, G और H का संरक्षण प्राप्त नहीं है। उन्होंने अपने तर्क के समर्थन में निम्नांकित निर्णय प्रस्तुत किये:-
 1. मै. हरियाणा स्टेट **F.C.C.W.** स्टोर लि. बनाम रामनिवास व अन्य 2002 (94) **FLR** 618 (सुप्रीम कोर्ट)।
 2. मोहम्मद अली बनाम स्टेट ऑफ हिमाचल प्रदेश **AIR** 2018 (सुप्रीम कोर्ट) 2194
 3. स्टेट ऑफ उत्तराखण्ड व अन्य बनाम श्रीमती सुरेशवती **AIR** 2021(सुप्रीम कोर्ट) 923।
 4. पोटर्री मजदूर पंचायत बनाम द परफेक्ट पोटर्री कंपनी लिमि. **AIR** 1979 (सुप्रीम कोर्ट) 1356
10. उभयपक्षों के तर्कों एवं साक्ष्य पर मनन के उपरांत इस विवाद में निम्नलिखित विचारणीय बिन्दु उत्पन्न हुये हैं:-
 1. क्या प्रार्थी को सेवामुक्ति करने के पूर्व विपक्षी द्वारा अधिनियम की धारा 25 F के प्रावधानों का अनुपालन न किये जाने से सेवामुक्ति अवैध है?प्रार्थी
 2. क्या प्रार्थी को को सेवा मुक्ति करने के पूर्व विपक्षी द्वारा वरिष्ठता सूची नहीं बनाई गई तथा अन्य श्रमिकों को समान कार्य हेतु नियोजित किया गया?प्रार्थी
 3. क्या तमिलनाडू टर्मिनेटिड फुलटाईम टेम्परेरी एल.आई.सी. एम्पलाईज एसोसियेशन बनाम एल.आई.सी. ऑफ इंडिया के प्रकरण में माननीय सुप्रीम कोर्ट द्वारा पारित आदेश के अनुसरण में प्रार्थी को विपक्षी द्वारा सेवा में अवशोषित किया जाना अध्यपेक्षित है?प्रार्थी

4. क्या प्रार्थी की नियुक्ति एक निश्चित अवधि हेतु किये जाने से निश्चित अवधि के अवसान पर प्रार्थी की सेवा स्वतः समाप्त हो गई?

.....विपक्षी

5. क्या इस अधिकरण को केन्द्र सरकार द्वारा प्रेषित रेफरेंस आदेश में प्रार्थी को विपक्षी द्वारा स्थाई पद पर अवशोषित (Absorb) न किये जाने के बिन्दु का परीक्षण करने का निर्देश नहीं दिया गया है तथा रेफरेंस आदेश की शर्तों और निबधनों से परे न्यायनिर्णयन करने का क्षेत्राधिकार इस अधिकरण को प्राप्त नहीं है?

.....विपक्षी

6. अनुतोष?

11. विचारणीय बिन्दुओं पर कमिक विनिष्चय इस प्रकार है:—

12. fopkj.kh; fclnq l af; k&1 o 4%&

13. विचारणीय बिन्दु सं. 1 के अंतर्गत अधिनियम की धारा 25 F के प्रावधानों का पालन न किये जाने के आक्षेप पर सेवामुक्ति की प्रकृति का परीक्षण किया जाना है जबकि विचारणीय बिन्दु सं. 4 के अंतर्गत प्रार्थी की नियुक्ति एक निश्चित अवधि हेतु किये जाने एवं उक्त अवधि के अवसान पर सेवा स्वतः समाप्त हो जाने का तर्क परीक्षित किया जाना है। इस प्रकार ये दोनों ही बिन्दु परस्पर अंतरवर्तित हैं। इसलिये इन बिन्दुओं पर साक्ष्य एवं तर्कों पर विवेचन एक साथ किया जाना ही उचित है।
14. प्रार्थी ने अपने मुख्य परीक्षण (शपथ पत्र) में यह कहा है कि उसे दिनांक 23.04.1996 को भर्ती किया गया था तथा दिनांक 16.07.1996 तक कार्य करने के उपरांत दिनांक 17.07.1996 को विपक्षी द्वारा उसे सेवा से हटा दिया गया। विपक्षी द्वारा सेवा से हटाने के पूर्व अधिनियम की धारा 25 F का पालन नहीं किया गया। किंतु प्रतिपरीक्षा में प्रार्थी धारा 25 F के प्रावधानों के संबंध में अपनी अनभिज्ञता व्यक्त करता है।
15. इस संदर्भ में यह उल्लेख किया जाना आवश्यक है कि धारा 25 F के प्रावधानों का संरक्षण प्राप्त करने के लिये एक श्रमिक द्वारा यह तथ्य प्रमाणित किया जाना आवश्यक है कि अधिनियम की धारा 25 B (2) (a) (ii) के अनुसार सेवा समाप्ति तिथि से पूर्ववर्ती एक वर्ष की अवधि में उसने 240 दिन से अधिक कार्य किया है। किंतु प्रार्थी स्वयं ने अपने अभिवचनों और साक्ष्य में यह तथ्य वर्णित नहीं किया है कि उसने सेवा समाप्ति से पूर्ववर्ती एक वर्ष की अवधि में 240 दिन कार्य किया हो।
16. माननीय उच्चतम न्यायालय ने अपने निर्णयों मोहम्मद अली बनाम स्टेट ऑफ हिमाचल प्रदेश व अन्य तथा स्टेट ऑफ उत्तराखण्ड व अन्य बनाम श्रीमती सुरेशवती में यह अवधारित किया है कि नियोजक के अधीन 240 दिन कार्य करने के तथ्य को प्रमाणित करने का सिद्धीभार कर्मकार पर ही है। यदि कर्मकार यह तथ्य प्रमाणित नहीं करता है तो अधिनियम की धारा 25 F के प्रावधानों का संरक्षण उसे देय नहीं होगा।
17. उपर्युक्त तथ्यात्मक एवं विधिक परिदृश्य में यह स्पष्ट रूप से परिलक्षित होता है कि चूंकि प्रार्थी ने विपक्षी के अधीन सेवामुक्ति से पूर्ववर्ती एक वर्ष की अवधि में 240 दिन कार्य करना प्रमाणित नहीं किया है। इसलिये वह अधिनियम की धारा 25 F के प्रावधानों के अंतर्गत नोटिस या नोटिस वेतन एवं छंटनी प्रतिकर का भुगतान जैसे संरक्षण को प्राप्त करने का अधिकारी नहीं है।
18. इसके अतिरिक्त विपक्षी का यह भी तर्क है चूंकि प्रार्थी की नियुक्ति 23.04.1996 से 16.07.1996 तक एक निश्चित अवधि (85 दिन) के लिये ही की गई थी उसकी सेवा इस अवधि के अवसान पर स्वतः समाप्त हो गई। इस प्रकार यह सेवामुक्ति अधिनियम की धारा 2 (oo) (bb) के अंतर्गत छंटनी का अपवाद है। उन्होंने अपने तर्क के समर्थन में माननीय उच्चतम न्यायालय द्वारा पारित निर्णय मै. हरियाणा स्टेट F.C.C.W. स्टोर लि. बनाम रामनिवास व अन्य में पारित विधि का अवलम्ब लिया है। इस निर्णय में माननीय उच्चतम न्यायालय ने यह अवधारित किया है कि जब संविदा के अधीन नियुक्ति एक निश्चित/विशिष्ट अवधि के लिये हो तब सेवा का उद्देश्य अथवा वह अवधि पूर्ण होने पर कर्मकार की सेवा समाप्ति, अधिनियम की धारा 2 (oo) (bb) के अंतर्गत छंटनी नहीं होती तथा धारा 25 F के प्रावधानों के अनुपालन का अवसर ही उत्पन्न नहीं होता।
19. प्रार्थी ने अपने साक्ष्य में प्रदर्श W&2, एल.आई.सी. का पत्र दिनांक 16.07.1996 स्वयं प्रदर्शित किया है। इस पत्र में यह स्पष्ट अंकित है कि...

“vki dks vkt fnukd 16-07-1996 को कार्यालय समय के पश्चात कार्यमुक्त किया जाता है D; kfd vki dks fnukd 23-04-1996 l s vkt fnukd 17-07-1996 dks 85 fnol i k gks pids g”

यद्यपि उभयपक्ष ने प्रार्थी का नियुक्ति पत्र साक्ष्य में प्रस्तुत नहीं किया है किंतु प्रार्थी ने यह स्वीकार किया है कि प्रदर्श W&2, पत्र में 85 दिन का उल्लेख किया जाना सही है। इस स्वीकारोक्ति के आधार पर प्रार्थी को 85 दिन की निश्चित अवधि हेतु विपक्षी द्वारा सेवा में नियुक्त किया जाना स्पष्ट है। अधिनियम की धारा 2 (oo) (bb) के प्रावधानों के अंतर्गत निश्चित अवधि के अवसान पर होने वाली सेवामुक्ति छंटनी की अपवादात्मक परिस्थिति है। इस प्रकार प्रार्थी की सेवामुक्ति निश्चित अवधि के उपरांत स्वतः ही हो जाने के कारण छंटनी होना प्रमाणित नहीं होती।

इस स्थिति में विपक्षीगण द्वारा सेवामुक्ति के पूर्व धारा 25 F के प्रावधानों की अनुपालना किया जाना किसी प्रकार अपेक्षित नहीं रहता। अतः विचारणीय बिन्दु संख्या-1 प्रार्थी के विरुद्ध एवं विचारणीय बिन्दु संख्या-4 विपक्षी के पक्ष में विनिश्चित किये जाते हैं।

20. fopkj.kh; fclnq l a[; k&2

21. प्रार्थी बनवारी लाल ने अपने सशपथ कथन में कहा है कि उसे हटाने से पूर्व वरिष्ठता सूची नहीं बनाई गई तथा उसे सेवामुक्त करने के बाद अन्य श्रमिकों को भर्ती किया गया, और नये श्रमिकों से भी वही काम लिया जाता है जो काम प्रार्थी करता था। किंतु प्रतिपरीक्षा में वह कहता है कि उसने उन श्रमिकों के नाम नहीं लिखे हैं जिन्हें उसके बाद भर्ती किया गया। उसे सुरेश सैनी का नाम मालूम है, उसे कब नियुक्त किया गया उसे पता नहीं। उल्लेखनीय है कि प्रार्थी एक दैनिक वेतन भोगी निश्चित अवधि के लिये नियुक्त कर्मकार था। इस स्थिति में विपक्षीगण द्वारा श्रमिकों की किसी वरिष्ठता सूची का संधारण करना अपेक्षित नहीं है। प्रार्थी द्वारा उससे कनिष्ठतर श्रमिकों के नाम व अन्य विवरण—यथा नियुक्ति तिथि, पद नाम आदि वर्णित ही नहीं किये गये हैं। इसलिये प्रार्थी के अनिश्चित कथन मात्र जो किसी प्रलेखीय साक्ष्य से भी पुष्ट नहीं हैं, विष्वसनीय नहीं लगते हैं। इसलिये प्रार्थी यह प्रमाणित नहीं कर सका है कि विपक्षीगण ने अधिनियम की धारा 25 G, H एवं नियम 77, 78 के प्रावधानों की किसी प्रकार अवहेलना की हो। अतः यह बिन्दु प्रार्थी के विरुद्ध निर्णीत किया जाता है।

22. fopkj.kh; fclnq l a[; k&3 o 5

23. विचारणीय बिन्दु संख्या-3 के अंतर्गत प्रार्थी को यह प्रमाणित करना है कि माननीय उच्चतम न्यायालय के निर्णय में पारित आदेश के अनुसरण में प्रार्थी को विपक्षी द्वारा सेवा में अवशोषित/नियमित (Absorb) किया जाना चाहिये। जबकि विचारणीय बिन्दु संख्या-5 के अंतर्गत विपक्षी को यह प्रमाणित करना है कि चूंकि केन्द्र सरकार द्वारा प्रेषित रेफरेंस आदेश में इस प्रकार अवशोषित किये जाने वाले बिन्दु उल्लेखित ही नहीं हैं, इसलिये अधिकरण को रेफरेंस आदेश से परे जाकर न्यायनिर्णयन का क्षेत्राधिकार प्राप्त नहीं है। ये दोनों बिन्दु परस्पर अंतरवर्तित हैं, इसलिये इन दोनों बिन्दुओं पर तर्कों एवं विधि का विवेचन एक साथ करते हुये विनिश्चित किया जाना उचित है।

24. विद्वान अभिभाषक प्रार्थी ने मौखिक तर्क के दौरान प्रार्थी की सेवामुक्ति के पूर्व अधिनियम की धारा 25 F, G व H के प्रावधानों के उल्लंघन को आधार न बनाते हुये माननीय उच्चतम न्यायालय के निर्णय तमिलनाडू प्रकरण में पारित विधि का उल्लेख करते हुये यह कहा है कि चूंकि प्रार्थी ने दिनांक 23.04.1996 से 16.07.1996 तक 85 दिन विपक्षी के अधीन कार्य करना प्रमाणित कर दिया है तथा पीठासीन अधिकारी सी.जी.आई.टी. नं.-1, नई दिल्ली द्वारा माननीय उच्चतम न्यायालय को प्रेषित प्रतिवेदन के साथ संलग्न योग्य कर्मकारों की सूची में प्रार्थी का नाम क्रम संख्या-460 पर अंकित हैं, इसलिये प्रार्थी को विपक्षी के अधीन स्थाई पद पर नियमित रूप से नियुक्त किये जाने हेतु विचारित किया जाना चाहिये। इसके विपरीत विद्वान अभिभाषक विपक्षी का यह तर्क है कि इस विवाद में केन्द्र सरकार द्वारा प्रेषित रेफरेंस आदेश में दिनांक 17.07.1996 को प्रार्थी की सेवामुक्ति की वैधता व औचित्य के परीक्षण मात्र का निर्देश दिया गया है। इस आदेश में प्रार्थी के स्थाई पद पर नियोजन/अवशोषण (Absorbition) न किये जाने का बिन्दु न्यायनिर्णयन का विषय नहीं है, न ही अधिकरण को ऐसा निर्देश दिया गया है। रेफरेंस आदेश में वर्णित बिन्दुओं से भिन्न किसी बिन्दु के न्यायनिर्णयन का अधिकरण को क्षेत्राधिकार प्राप्त नहीं है। उन्होंने अपने तर्क के समर्थन में माननीय उच्चतम न्यायालय के निर्णय पोटरी मजदूर पंचायत बनाम द परफेक्ट पोटरी कंपनी लिमि. व अन्य का उल्लेख किया है। इस निर्णय में माननीय उच्चतम न्यायालय ने अधिनियम की धारा 10 (4) एवं 15 के अंतर्गत औद्योगिक अधिकरण के क्षेत्राधिकार के संबंध में अधिमत प्रतिपादित करते हुये यह कहा है कि औद्योगिक अधिकरण रेफरेंस आदेश की शर्तों एवं बिन्दुओं जो कि विशिष्ट रूप से न्यायनिर्णयन हेतु संदर्भित हो तथा उससे जुड़े हुये मामलों के न्यायनिर्णयन हेतु ही सक्षम है। उन शर्तों एवं बिन्दुओं से परे औद्योगिक अधिकरण को न्यायनिर्णयन का क्षेत्राधिकार नहीं है।

25. मैंने उभयपक्ष के तर्कों एवं उपलब्ध साक्ष्य पर मनन किया।

26. माननीय उच्चतम न्यायालय ने तमिलनाडू प्रकरण में पारित निर्णय में पीठासीन अधिकारी सी.जी.आई.टी. नं.-1, नई दिल्ली को प्रेषित निम्नांकित विवाद के न्यायनिर्णयन के संबंध में विधि प्रतिपादित की है।

PD; k , y-vkb l h- i x/ku }kjk , y-vkb l h- में नियोजित बदली/अस्थायी एवं अंशकालीन deidkja dks fnukad 20-05-1985 के उपरांत सेवा में अवशोषित %Absorb% u djuk U; k; kfpr g& ugha rks deidkj D; k vuqk'sk i klr djus ds vf/kdkjh g&B

27. सी.जी.आई.टी. नं.-1, नई दिल्ली द्वारा इस विवाद को न्यायनिर्णीत करते हुये एल.आई.सी. द्वारा दिनांक 20.05.1985 के पश्चात बदली/अस्थायी व अंशकालीन कर्मकारों को निगम सेवा में अवशोषित (Absorb) न करने को न्यायोचित नहीं माना था तथा माननीय उच्चतम न्यायालय ने तमिलनाडू प्रकरण वाले विवाद में सी.जी.आई.टी. द्वारा पारित अधिनियम को विधिक रूप से उचित माना व पुष्ट किया है। एल.आई.सी. को संदर्भित कर्मकारों को सेवा में स्थाई पदों पर अवशोषित करने का आदेश दिया है। किंतु हस्तगत विवाद में केन्द्र सरकार द्वारा रेफरेंस आदेश में प्रार्थी को दिनांक 17.07.1996 को विपक्षी द्वारा नौकरी से निकाले जाने के कृत्य की वैधता व औचित्य के बिन्दु पर न्यायनिर्णयन का आदेश दिया है। इस रेफरेंस आदेश में प्रार्थी को किसी स्थाई पद पर विपक्षी द्वारा अवशोषित (Absorb) न करने के बिन्दु की वैधता का परीक्षण किये जाने का निर्देश समाहित नहीं है। प्रार्थी स्वयं ने भी अपने साक्ष्य के शपथ पत्र में

उसकी सेवामुक्ति दिनांक 17.07.1996 को मात्र अधिनियम की धारा 25 F, G और H तथा नियम 77, 78 का अनुपालन न किये जाने के आधार पर ही अवैध होना कहा है। प्रार्थी ने स्वयं को किसी स्थाई पद पर सेवा में अवशोषित करने हेतु विचारित किये जाने एवं पदस्थापित किये जाने का अनुतोष शपथ-पत्र में नहीं माँगा है।

28. अधिनियम की धारा 25 F, G और H के प्रावधानों के सम्यक अनुपालन किये बिना श्रमिक को सेवामुक्त किये जाने का बिन्दु तथा विपक्षी के अधीन 85 दिन कार्य करने के आधार पर किसी पद पर अवशोषित (Absorb) न किये जाने के बिन्दु का परीक्षण स्पष्ट रूप से सुभिन्न तथ्यों पर आधारित है। पोटरी मजदूर पंचायत बनाम द परफेक्ट पोटरी कंपनी लिमि. व अन्य में माननीय उच्चतम न्यायालय द्वारा पारित मार्गदर्शन विपक्षी के तर्क को पुष्ट करता है। इस अधिकरण को प्रार्थी द्वारा 85 दिन कार्य करने पर विपक्षी की सेवा में अवशोषित न किये जाने के बिन्दु के परीक्षण का क्षेत्राधिकार रेफरेंस आदेश के माध्यम से नहीं दिया गया है। इसलिये 85 दिन की सेवा के आधार पर सेवा में अवशोषित न करने का बिन्दु रेफरेंस आदेश में समाहित न होने के कारण इस अधिकरण के न्यायनिर्णयन के क्षेत्राधिकार से परे प्रमाणित होता है। इस अधिकरण को रेफरेंस आदेश के अनुसार अधिनियम के प्रावधानों का विपक्षी द्वारा पालन न करते हुये सेवामुक्त किये जाने के बिन्दु की वैधता का परीक्षण अपेक्षित है। इस विवेचन के उपरांत मैं माननीय उच्चतम न्यायालय द्वारा तमिलनाडू प्रकरण में पारित विधि को ससम्मान तथ्यात्मक भिन्नता के कारण प्रार्थी के पक्ष में सहायक नहीं पाता हूँ। अतः बिन्दु संख्या-3 प्रार्थी के विरुद्ध एवं बिन्दु संख्या-5 विपक्षी के पक्ष में विनिश्चित किये जाते हैं।
29. वर्कर्स' क्लब
30. उपर्युक्त विवेचन के पश्चात विचारणीय बिन्दु संख्या-1, 2 व 3 प्रार्थी के विरुद्ध एवं विचारणीय बिन्दु संख्या-4 एवं 5 विपक्षीगण के पक्ष में विनिश्चित होने के कारण प्रार्थी की सेवामुक्ति दिनांक 17.07.1996 अधिनियम के किसी भी प्रावधान के विरुद्ध नहीं पायी गई है। इसलिये प्रार्थी, विपक्षीगण से कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।
31. संदर्भित विवाद का न्यायनिर्णयन इसी प्रकार किया जाता है।
32. अधिनियम की प्रतिलिपि औद्योगिक विवाद अधिनियम, 1947 की धारा 17 (1) के अनुसरण में प्रकाशनार्थ प्रेषित की जावे।
33. न्यायालय द्वारा अधिनियम आज दिनांक 10.10.2024 को सुनाया गया।

राधामोहन चतुर्वेदी, पीठासीन अधिकारी

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2301.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स बिरला कॉर्पोरेशन लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और श्री उमेश कुमार गौतम के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर, पंचाट (रिफरेन्स न.- सीजीआईटी/एलसी/आर/50/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. एल - 29012-38-2018-आईआर (एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2301.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference No. CGIT/LC/R/50/2018**) of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Birla Corporation Limited** and **Shri Umesh Kumar Gautam** which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. L-29012-38-2018-IR (M)]

DILIP KUMAR, Under Secy.

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/50/2018

Present: P.K.Srivastava

H.J.S..(Retd)

Umesh Kumar Gautam,
S/o Sh. Bhagwandeem Gautam,
R/o Udhvdham Kotar, Tehsil-Kotar,
District – Satna (M.P.)

Workman

Vs

1. The Vice President-HR,
M/s Birla Corporation Limited,
Unit: Satna Cement Works,
Post – Birla Vikas, Satna (MP)-485005
2. The Manager Mines,
M/s Birla Corporation Limited,
Unit: Satna Cement Works,
Post – Birla Vikas, Satna (MP)-485005

Management

(JUDGMENT)

(Passed on this 8th day of November-2024)

As per letter dated 25.10.2018 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act') as per Notification No. L-29012/38/2018-IR(M) dt. 25.10.2018. The dispute under reference relates to:

“प्रबंधन वाइस प्रेसीडेंट-एचआर, बिरला कॉर्पोरेशन लिमिटेड, यूनिट सतना जिला सतना, मध्य प्रदेश/माइन्स मैनेजर, बिरला कॉर्पोरेशन लिमिटेड, यूनिट सतना, मध्य प्रदेश श्री उमेश कुमार गौतम आत्मज श्री भगवानदीन गौतम, भूतपूर्व टाईमकीपर, माइन्स टाईम ऑफिस को नियुक्ति पत्र दिनांक 17.09.2012 के तहत प्रशिक्षु के तौर पर नियोजित कर उसकी नियोजन की अवधि समय-समय पर बढ़ाते हुये चार साल सेवा में रखने के पश्चात उसकी सेवाएं दिनांक 01.10.2016 से समाप्त किये जाने की कार्यवाही न्यायोचित है? यदि नहीं तो, संबंधित आवेदक किस अनुतोष के हकदार है?”

After registering case on the basis of the reference, notices were issued to the parties. They appeared and filed their respective statements of claim and defense.

According to the Workman, he was appointed by Management as Time-Keeper on 17/09/2012 and was posted in Satna Cement Works Mines Time-Office at Satna (MP). He worked continuously till 13/10/2016 and was illegally terminated from services under an oral order of Management which is in violation of Section 25 (F) and 25 (N) of the Act. He was not issued any notice nor was given any compensation on termination of his services by Management. The Workman has thus prayed that, holding the termination of his services by Management unjust in law, he be held entitled to be reinstated with back wages and benefits.

Case of Management, in short, is that the Workman was a Learner who was appointed as Apprentice by Management on 17/09/2012. According to the terms of appointment, this Apprenticeship was for One year which could be extended further. It is further the case of Management that, his Apprenticeship was extended vide orders dated 03/10/2013, 06/10/2014 and 01/10/2015 on his request on compassionate grounds to enable him to get more experience to start a job anywhere else. Hence, being Apprentice is not a Workman as defined under Section 2 (s) of

the Act. Hence, he is not entitled to protection of Section 25 (F) and 25 (N) of the Act accordingly. Management has prayed that the reference be answered against the Workman.

Both the sides have filed affidavits as their examination-in-chief and have been cross-examined by their opposite party.

The Workman side has filed and proved documents Exhibits W-1 to W-4 which are letters of Engagement of Workman as Apprentice and his extension as Apprentice as well the details regarding his salary slips.

The Management has filed and proved the first appointment letter and letters regarding extension of Apprenticeship of the Workman up to 2016 which are Exhibits M-1 to M-4.

I have heard arguments of Learned Counsel Shri Praveen Yadav for Workman and Shri R.B. Tiwari for Management. I have gone through the record as well.

On perusal of record in the light of referred arguments, the following issue comes up for determination.

1-Whether, the Workman is a workman as defined under Section 2 (S) of the Act?

2- Whether the disengagement of the workman is retrenchment as defined under Section 2 (oo) of the Act?

Issue No -1 :-

Section 2 (s) which defines Workman is being reproduced as follows :-

(s) “workman” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward,

whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who, being employed in a supervisory capacity, draws wages exceeding ten thousand rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

As it clear from perusal of the aforesaid provisions it does not exclude Apprentice or Trainees from being a Workman as defined under the Act. Hence, the Workman is held to be a Workman as defined under Section 2 (S) of the Act.

As regards, the issue regarding the legality of termination of the Workman by Management, it is admitted between the parties that he worked for 240 days continuously in very year including the year presiding the date of his termination. Now, the question arises when admittedly the Workman was not issued any notice nor was given any compensation before termination of his services, will this action of Management be called just and legal?

Issue No -2:-

On this issue, the Learned Counsel for Management has submitted that termination of his services is under a contract; hence, his case will not be retrenched as defined under Section 2 (oo) of the Act. Section 2 (oo) of the act is being reproduced as follows-

2(oo) “retrenchment” means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

(a) voluntary retirement of the workman; or

(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or

(c) termination of the service of a workman on the ground of continued ill-health;

Learned Counsel for Management further submits that there is a scheme for training to Apprentice and for matters connected there with, which is enforced since 01/04/1993. According to this scheme, Management engages Apprentices who learn the job as a Trainee and initially the period of Apprenticeship is for one year which could be extended till 3 year or even up to 4 years on the request of the Candidate on compensation ground frivolously on humanitarian consideration. The relevant provisions of the scheme referred to by the Learned Counsel for Management is being reproduced as follows:-

“Apprentice means a Learner who is undergoing Apprenticeship training in the establishment in pursuance of terms of the engagement letter issued to him under this scheme”.

Conditions of Training:

The training shall ordinarily be for the period mentioned in the schedule but for any kind of job requiring specialized skills, the period may be even more but the total period may not exceed 4 years. But on request of the candidate, the period could further be extended on compassionate ground frivolously on humanitarian consideration.

This is also mentioned in the scheme that an Apprentice undergoing training in the establishment shall be a trainee and not a Workman. Further, the scheme provides that after completion of training, it shall not be obligatory on the part of Employer to offer employment to the Apprentice nor shall it be obligatory on the part of the Apprentice to accept an employment under the Employer.

Section 4 of the Apprentice Act, 1961, requires to be referred here and being reproduced as follows:-

Section 4 Contract of Apprenticeship

- 1) No person shall be engaged as an Apprentice to undergo apprenticeship training in a designated trade unless such person or, if he is a miner, his guardian has entered into a contract of Apprenticeship with the employer.
- 2) The Apprenticeship training shall be deemed to have commenced on the date on which the contract of Apprenticeship has been entered into under sub-section (1).
- 3) Every contract of Apprenticeship may contain such terms and conditions as may be agreed to by the parties to the contract.

Section 22 is also being reproduced as follows:-

Section 22 – offer an acceptance of employment-

- (1) It shall not be obligatory on the part of the Employer to offer any employment to any Apprentice who has completed the period of his Apprenticeship training in his Establishment, nor shall it be obligatory on the part of the Apprentice to accept an employment under the Employer.

The documents relating engagement of the Workman and his extension as engagement established that he was engaged as an Apprentice and his apprenticeship was extended from time to time total period up to 4 years. It is in the statement of the Workman that he used to do the work of a Time-Keeper regular period but only this fact that work of Regular Time-Keeper was taken by Management from him will not grant him status of Regular Employed Employee he be still be an Apprentice i.e. a Learner.

This is also established that in the Standing Orders as well as in the Training Scheme mentioned as above, the Management is not under obligation to offer regular appointment to an Apprentice and also that his disengagement was after expiry of period mentioned in the letter extending his contract of engagement hence, his termination cannot be held to be retrenchment as defined under Section 2 (oo) of the Act. Accordingly, the Workman will not be entitled to protection of Section 25 (F) and 25 (N) of the Act consequently the disengagement of the Workman by Management in the case in hand is held not unjust in law.

On the basis of above discussion, the reference deserves to be answered against the Workman as follows.

AWARD

Holding the action of Management Vice President-HR in terminating the services of Workman Umesh Kumar Gautam from 01/10/2016 just and legal, the Workman is held entitled to no relief.

No order as to cost.

DATE:- 08/11/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2302.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार लाइफ इन्सुरेंस कॉर्पोरेशन ऑफ़ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और श्री लोट्टापल्ली नागालक्ष्मायह के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद, पंचाट (रिफरेन्स न.- 20/2014) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. जेड – 16025-04-2024-आईआर (एम) -151]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2302.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Reference No. 20/2014) of the **Central Government Industrial Tribunal cum Labour Court, Hyderabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Life Insurance Corporation of India** and **Shri Lottapalli Nagalaxmaiah** which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. Z-16025-04-2024-IR (M)-151]

DILIP KUMAR, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 10th day of December, 2024

INDUSTRIAL DISPUTE LC No. 20/2014

Between:

Sri Lottapalli Nagalaxmaiah,

S/o Guruvulu,

R/o H.No.14-275, New Masid Bazar.

Gurajala Post and Mandal,

Guntur district.

.....Petitioner

AND

1. The Senior Divisional Manager,
Life Insurance Corporation of India,
Divisional Office, Kennedy Road,
Machilipatnam
 2. The Branch Manager,
Life Insurance Corporation of India,
67G, Gurazala,
Guntur District.
- ... Respondents

Appearances:

For the Petitioner : Sri M V L Narsaiah, Advocate

For the Respondent: Sri G. Sriram, Advocate

AWARD

Sri Lottapalli Nagalaxmaiah who worked as temporary sub-staff has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents Life Insurance Corporation of India seeking for reinstatement /regularization into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. Case is fixed for cross examination of WW1. Despite sufficient opportunity, Petitioner did not produce the witness WW1 for cross examination. In the absence of cross examination of witness the chief evidence of the Petitioner is not relevant and admissible as per rule of evidence. Therefore, in facts and circumstances, the claim of the Petitioner is not substantiated by any cogent and relevant evidence, hence, 'No claim' Award is passed. Petition is dismissed. Transmit.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 10th day of December, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the	Witnesses examined for the
Petitioner	Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2303.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार लाइफ इन्सुरेंस कॉर्पोरेशन ऑफ़ इंडिया के प्रबंधन के संबद्ध नियोजकों और श्री केथवथ हनुमान नायक के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद, पंचाट (रिफरेन्स न.- 22/2014) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. जेड – 16025-04-2024-आईआर (एम) -152]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2303.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference No. 22/2014**) of the **Central Government Industrial Tribunal cum Labour Court, Hyderabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Life Insurance Corporation of India** and **Shri Kethavath Hanuman Nayak** which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. Z-16025-04-2024-IR (M)-152]

DILIP KUMAR, Under Secy.

ANNEXURE

**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT
HYDERABAD**

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 10th day of December, 2024

INDUSTRIAL DISPUTE LC No. 22/2014

Between:

Sri Kethavath Hanuma Nayak,

S/o Sankar Nayak,

R/o H.No.1-201, Andhra Bank Lane,

Balaji Nagar, Gurajala Post and Mandal,

Guntur District.

.....Petitioner

AND

1. The Senior Divisional Manager,
Life Insurance Corporation of India,
Divisional Office, Kennedy Road,
Machilipatnam.

2. The Branch Manager,
Life Insurance Corporation of India,
67G, Gurazala,
Guntur District.

... Respondents

Appearances:

For the Petitioner : Sri M V L Narsaiah, Advocate

For the Respondent: Sri G. Sriram, Advocate

AWARD

Sri Kethavath Hanuma Nayak who worked as temporary sub-staff has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents Life Insurance Corporation of India seeking for reinstatement /regularization into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. Case is fixed for cross examination of WW1. Despite sufficient opportunity, Petitioner did not produce the witness WW1 for cross examination. In the absence of cross examination of witness the chief evidence of the Petitioner is not relevant and admissible as per rule of evidence. Therefore, in facts and circumstances, the claim of the Petitioner is not substantiated by any cogent and relevant evidence, hence, 'No claim' Award is passed. Petition is dismissed. Transmit.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant and corrected by me on this the 10th day of December, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner
NIL

Witnesses examined for the
Respondent
NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2304.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार लाइफ इन्सुरेंस कॉर्पोरेशन ऑफ़ इंडिया के प्रबंधन के संबद्ध नियोजकों और श्री यू. वेंकट रमण, महासचिव, ऑल इंडिया नेशनल एम्प्लॉइज' फेडरेशन (इंटक) के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद, पंचाट (रिफरेन्स न.- 21/2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. एल – 17012-21-2018-आईआर (एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2304.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference No. 21/2019**) of the **Central Government Industrial Tribunal cum Labour Court, Hyderabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Life Insurance Corporation of India** and **Shri U. Venkata Ramana, General Secretary, All India National Life Insurance Employees' Federation (INTUC)** which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. L-17012-21-2018-IR (M)]

DILIP KUMAR, Under Secy.

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, HYDERABAD**

Present: - **Sri Irfan Qamar,**

Presiding Officer

21st day of November, 2024

INDUSTRIAL DISPUTE No. 21/2019

Between:

Sri U. Venkata Ramana,

General Secretary,

All India National Life Insurance Employees'

Federation (INTUC), Machilipatnam Division,

70530, Gudugupet, Turlapati Vari Street,

Machilipatnam-521001.

-- Petitioner Union(s)

AND

The Sr. Divisional Manager,

Life Insurance Corporation of India,

Divisional Office, Jeevan Prakash,

Kennedy Road, Machilipatnam

A.P. -521001.

-- Respondent

Appearance:

For the Petitioner : Sri Y. Ranjit Reddy, Advocate
For the Respondent : Sri Venkatesh Dixit, Advocate

AWARD

The Government of India, Ministry of Labour & Employment, New Delhi by its order No.L-17012/21/2018-IR(M) dated 10.1.2019 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication between the management of LIC of India and their workman, whereunder this Tribunal is required to adjudicate the dispute i.e.,

“Whether the action of management of Life Insurance Corporation of India, Divisional Office, Machilipatnam, has committed unfair labour practice prescribed under Item 11 of Part-I of the Fifth Schedule, the Industrial Disputes Act, 1947 by instituting disciplinary Procedure under the LIC of India (Staff) regulation, 1960 against Sri U. Venkata Ramana, Higher Grade Assistant and withholding his promotion in sealed cover?

After receiving the above said reference, it was registered as ID No. 21/2019 in this Tribunal and notices were issued to both the parties and secured their presence.

2. During pendency of proceeding, Petitioner filed memo with a prayer that he wants to withdraw the ID case for pursuing his writ petition before Hon'ble High Court which at final stage of hearing. Respondent has no objection. Hence, petition filed by Petitioner to withdraw the ID is allowed. The reference is thus disposed of.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P. Phani Gowri, Personal Assistant corrected and signed by me on this the 21st day of November, 2024.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the	Witnesses examined for the
Petitioner	Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2305.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नई इंडिया असुरेन्स कंपनी लिमिटेड के प्रबंधन के संबद्ध नियोजकों और श्री विक्रम बजाज के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चंडीगढ़-1, पंचाट (रिफरेन्स नं.- 155/2013) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. एल – 17012-12-2011-आईआर (एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2305.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference No. 155/2013**) of the **Central Government Industrial Tribunal cum Labour Court, Chandigarh-1** as shown in the Annexure, in the Industrial dispute between the employers in relation to **New India Assurance Company Limited** and **Shri Vikram Bajaj** which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. L-17012-12-2011-IR (M)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Present: Sh. Brajesh Kumar Gautam, Presiding Officer, Chandigarh.

ID No.155/2013

Registered On: 18.02.2014

Vikram Bajaj S/o Sh. Jas Raj Bajaj, Kailash Nagar, Street No.4, Fazilka Tehsil Fazilka, Distt. Ferozpur (Punjab).

.....Workman

Versus

The Branch Manager, New India Assurance Co. Ltd., Branch Fazilka, Distt. Ferozpur (Punjab).

.....Management

AwardPassed On: 16.12.2024

Central Government vide Notification No. L-17012/12/2011-IR(M) dated 27.01.2014, under clause (d) of Sub-Section (1) sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether Shri Vikram Bajaj S/o Sh. Jas Raj Bajaj has completed 240 days of continuous service in a year in the management of New India Assurance Co. Ltd., Branch Fazilka? If yes, whether the action of the said management in terminating the services of Shri Vikram Bajaj w.e.f. 05.11.2010 is legal and justified? If not, what relief the workman is entitled to?”

1. After receipt of above reference claim petition was filed on 02.05.2014. Reply/ Written Statement filed by Respondent/ Management on 15.09.2014. Evidence of Workman recorded and closed on 04.05.2016. After recording of evidence of workman, he became absent and left taking proper steps. Ultimately a notice was sent to workman under registered cover, which was served on 21.11.2024. Despite the service of notice workman did not turn up.
2. Perused the file and it is found that none is appearing on behalf of workman. Several opportunities have already been given to the workman but of no use. appears the workman is not interested in adjudication of the matter on merits as such, this Tribunal is left with no choice except to pass a ‘No Claim Award’. Accordingly, no claim award is passed in the present case for the non-prosecution of workman. File after completion be consigned in the record room.
3. Let copy of this award be sent to Central Government for publication as required under Section 17 of the ID Act, 1947.

B. K. GAUTAM, Presiding Officer

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2306.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स गुजरात अम्बुजा सीमेंट लिमिटेड; मेसर्स नीम चंद कांटेक्टर के प्रबंधन के संबद्ध नियोजकों और श्री संजीव कुमार के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चंडीगढ़-1, पंचाट (रिफरेन्स न.- 01/2023) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. जेड – 16025-04-2024-आईआर (एम) -153]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2306.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference No. 01/2023**) of the **Central Government Industrial Tribunal cum Labour Court, Chandigarh-1** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Gujarat Ambuja Cement Limited; M/s Neem Chand Contractor and Shri Sanjeev Kumar** which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. Z-16025-04-2024-IR (M)-153]

DILIP KUMAR, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.****Present: Sh. Brajesh Kumar Gautam, Presiding Officer, Chandigarh.**

ID No.01/2023

Registered On:- 13.04.2023

Sanjeev Kumar S/o Sh. Puran Chand R/o VPO Parnoo, Tehsil Arki, District Solan, H.P.

.....Workman

Versus

1. General Manager M/s Gujrat Ambuja Cement Ltd., House Unit Sub-Station No.3 Darlaghat, Tehsil Arki, District Solan, H.P.

2. M/s Neem Chand Contractor S/o Late Sh. Kirpa Ram Village Bhurjani, PO Bhrarighat, Tehsil Arki, Distt. Solan, H.P.

.....Respondents

Award**Passed On:-18.12.2024**

1. Present Industrial Dispute has arisen on the basis of claim petition filed by workman Sh. Sanjeev Kumar under Section 2-A of the Industrial Dispute Act, 1947 wherein a prayer to reinstate the workman with all back wages with interest @20% per annum and other consequential benefits has been made. As per the claim petition the workman was appointed in the Month of January, 2010 in the production Branch of Respondent No.1- the Principal Employer and through respondent No.2- the contractor and he worked there till July, 2021. It was alleged in the claim petition that without giving any notice required under the provisions of Industrial Dispute Act, he was verbally terminated from the services. It was also stated that respondent did not pay the salary of Month of July, 2021.
2. During the pendency of the proceedings before this Tribunal the case was fixed for filing written statement by Respondents No.1 & 2.
3. Today on 18.12.2024 photocopy of compromise dated 17.12.2024 entered into between Respondent No.2 M/s Neem Chand Contractor through its Sole Proprietor Sh. Neem Chand and workman Sh. Sanjeev Kumar has been filed by Ld. AR for Workman. This compromise is taken on the record. As per compromise the respondent No.2 has been given fresh appointment to the workman and the workman is agreed to join from 01.04.2025 as Attendant Coal Tippler at the same rate/ Facility provided to supply workers. It has been further agreed between the parties that workman shall withdraw the present ID Case No.01/2023 titled as Sanjeev Kumar Vs M/s Gujrat Ambuja Cement and another.
4. It has been urged by Ld. AR. Sh. B.R. Sharma for Workman that since grievance of workman is settled now no more dispute remains to be decided in the present case and he gave a statement before this Court stating therein that as instructed by workman he was placing on record the compromise dated 17.12.2024 and upon instruction by the Workman he is withdrawing the present claim petition as per terms of compromise deed. It is further stated in the statement recorded today that workman reserves the liberty to revive the present petition before this Tribunal if the respondent No.2 fails to act in terms of compromise.
5. Considering the statement of Sh. B.R. Sharma AR for Workman and the compromise entered into between respondent No.2 and Workman, as prayed, present claim petition is permitted to be withdrawn with liberty to revive the petition if respondent No.2 fails to act in terms of compromise dated 17.12.2024.
6. In view of the above the Industrial Dispute is disposed off in terms of compromise dated 17.12.2024 with a liberty to the workman to revive the same if need be.
7. Since the Ld. Counsel of Workman has withdrawn the present case, therefore there is no need to proceed in the case further.
8. Let copy of this award be sent to Central Government for publication as required under Section 17 of the ID Act, 1947.

B. K. GAUTAM, Presiding Officer

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2307.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स सेसा माइनिंग कॉर्पोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और एम्प्लाइज' यूनियन ऑफ़ सेसा माइनिंग कॉर्पोरेशन लिमिटेड के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, मुंबई-2, पंचाट (रिफरेन्स नं.- 12/2020) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. एल – 29011-5-2020-आईआर (एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2307.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Reference No. 12/2020) of the **Central Government Industrial Tribunal cum Labour Court, Mumbai-2** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Sesa Mining Corporation Limited** and **Employees' Union of Sesa Mining Corporation Limited** which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. L-29011-5-2020-IR (M)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT

SHRIKANT K. DESHPANDE

Presiding Officer

REFERENCE NO. CGIT-2/12 of 2020

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

M/S. SESA MINING CORPORATION LTD.

The Director (HR),

M/s. Sesa Mining Corporation Ltd,

Bicholim Iron Ore Mine, Dhabdhaba,

Bicholim, Goa 403504.

AND

THEIR WORKMEN.

(EMPLOYEES' UNION OF SESA MINING

CORPORATION LTD.)

The General Secretary,

Employees' Union of Sesa Mining Corporation,

C/o Nilesh Karbotkar, Sesa Mining Corporation,

G Dhabdhaba, Bicholim, Goa, 403504.

APPEARANCES:

Party No. 1 : Mr. Bandodkar

Advocate

Party No. 2 : Mr. P. Gaonkar

Representative

AWARD**Camp Goa**

(Delivered on 27-11-2024)

1. This Reference has been made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, vide Government of India, Ministry of Labour & Employment, New Delhi, order No. L-29011/5/2020-IR(M) dated 10.07.2020. The terms of reference given in the schedule are as follows:

1. *“Whether the action of Sesa Mining Corporation Limited not paying the partial arrears as per settlement citing the closure of mining operations is legal?”*

2. *If it is illegal, what relief the workers eligible and from which date they are eligible?”*

2. Read pursis Ex-5, submitted by the counsel for the Second Party. Perused the say given on behalf of the First Party. Heard both the sides.

It seems that, the present matter has been settled amicably between the parties and the issue concerned in the Reference has also been settled therefore, the First Party has given no objection for disposal of the Reference in terms of settlement. The other side has no objection for the disposal of the Reference.

In view of this, the Reference is disposed off as settled. No order as to costs. The proceeding is closed.

Hence, I pass the following Order-

ORDER

- i. The Reference is answered in the negative.
- ii. The Second Party is not entitled for relief as prayed.
- iii. No order as to costs.
- iv. The copy of Award be sent to the Government.

Date: 27-11-2024

SHRIKANT K. DESHPANDE, Presiding Officer

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2308.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयरपोर्ट ऑथोरिटी ऑफ़ इंडिया के प्रबंधन के संबद्ध नियोजकों और इंडियन एयरपोर्ट कामगार यूनियन (आईएकेयू) के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नई दिल्ली-2, पंचाट (रिफरेंस नं.- 88/2016 कम्प नं. 06/2017) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. जेड – 16025-04-2024-आईआर (एम) -153]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2308.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference No. 88/2016 & Comp. No. 06/2017**) of the **Central Government Industrial Tribunal cum Labour Court, New Delhi-2** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Airports Authority of India** and **Indian Airport Kamgar Union (IAKU)** which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. Z-16025-04-2024-IR (M)-153]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

ID.No. 88/2016

Through-The General Secretary,
Indian Airport Kamgar Union (IAKU),
B-140, Pocket-A, INA Colony,
New Delhi-110023.

Comp. No. 06/2017

Indian Airports Kamgar Union,
Through it's General Secretary,
B-140, Pocket-A, INA Colony,
New Delhi.

VERSUS

The Chairman,
Airports Authority of India,
Rajeev Gandhi Bhawan, Safdarjang Airport,
New Delhi-110003.

Appearance

For claimant: None

For respondent: Sh. Vaibhav Kalra and Ms. Neha Bhatnagar, Ld. ARs

AWARD

These are the two cases filed by the same workmen against the same respondent. One is the reference sent by the appropriate government and the other has been filed U/s 33A of the **Industrial Disputes Act (hereinafter referred as an Act)**. Having common respondent and same cause of action, these cases are taken together for disposing off their cases.

Now, come to first case i.e. ID No. 88/2016, where the appropriate Government has sent the reference referred dated 28.11.2016 to this tribunal for adjudication in the following words:

“Whether the action on the part of the management of Airport Authority of India in not framing and implementation of transfer/posting policy and introduction of Staff Quarter Rules as per the provisions of AAI Act, 1994, is legal and justified? If not, what relief are the employees entitled to?”

After receiving the said reference, notice was issued to both the parties. Both the parties have appeared. Claimant/union has filed the claim statement, stating that claimant union is a registered Trade Union under the Trade Unions Act 1926, operating in the establishments of Airports Authority of India (hereinafter called as Authority) representing more than 5200 workers of AAI throughout the country and has been acting and functioning for the welfare and interest of the employees of Airports Authority of India. G. A. Rudrappa is General Secretary of the Claimant Union and authorized to file the present Statement of Claim. Respondent management, Airports Authority of India, is a Public Sector statutory Autonomous Undertaking created through an Act of Parliament i.e. Airports Authority of India Act, 1994. Respondent is responsible for creating, developing, upgrading, maintaining and managing Airports and Air space and navigation and landing parking of aircrafts in India. Management had framed the Transfer Policy from 01.03.2000 for its employees without following established procedure of law. On 23.05.2003, management had framed the Airports Authority of India (General Condition of Service and Remuneration of Employees) Regulations, 2003 also without following the established procedure of law. The Airports Authority of India have been created through Airports Authority of India Act, 1994 by repealing two pre-existing Acts i.e. International Airports Authority Act, 1971 and National Airports Authority Act, 1985, thereby by merging two erstwhile Authorities which were called International Airports Division (IAD) and National Airports Division (NAD). The workmen of these two divisions were being governed by their independent service regulations and as per section 18(2) of the AAI Act the officers and employees were supposed to be governed by the service regulations of the AAI. Hence, these employees of IAD and NAD continued to be governed by the service regulations of erstwhile authorities even after one year as mandated U/s 18(7) of AAI Act. The petitioner union submitted a letter to the management on 15.04.2014 to frame a legally valid Transfer Policy, stating that there is no legally valid Transfer Policy framed as mandated under section 42 of the Act. The Petitioner also stated therein that the transfer of the employees are being made in a very arbitrary and unlawful manner and consequently Industrial disputes are being raised one after another, resulting in a wastage of resources. Furthermore, it was stated that clause 7 of the Airports Authority of India (General Conditions of Service and Remuneration) 2003, provided for the transfer of employees anywhere in India, though Airports Authority of India (General Conditions of Service and Remuneration) 2003 is also neither a legally valid nor a legally valid Transfer Policy of the Respondent and same is pending for adjudication in a dispute before Central Government Industrial Tribunal No.1 at Karkardooma Court Complex, New Delhi. Petitioner Union also wrote a letter to Respondent on 12.05.2014 citing the glaring issues involving the Transfer Policy of the Respondent. It was stated that on one hand Respondent had circulated a Transfer Policy vide letter dated 25.11.1999 and on other hand continued to apply pre-merger Transfer Policy of International Airports Authority of India vide

order dated 26.08.2002. On 12.09.2014, the petitioner union sent a notice of strike to the respondent stating that respondent is paying no heed to demand of petitioner to frame a legally valid, just and fair Transfer Policy and Staff Quarter Allotment Rules. Petitioner workman submitted that the Hon'ble High Court of Madras in WP No. 8923/2015 in Indian Airports Kamgar Union (Petitioner union) V/s Airports Authority of India & Ors in the writ petition filed by the petitioner union praying for directions for preventing the respondents from giving effect to the order of transfer of Sh. G. Venkataswamy, branch Secretary of the petitioner union, order without obtaining permission of Hon'ble Tribunal, in violation of Section 33 of the I.D Act, 1947, since there was an Industrial Dispute pending before the Central Government Industrial Tribunal related to the justifiability of the process of transfer adopted by the Transfer Committee and that too when G. Venkataswamy was a protected workman. It was pronounced by the Hon'ble Madras High Court in the judgment that the employee was a protected workman, It was pronounced by the Hon'ble Madras High Court in the Judgment that the employee was a protected workman, and this issue was directly related to the dispute which was pending before the Industrial Tribunal, and therefore, the management was mandatorily required to seek approval from the Tribunal before effecting the transfer of the employee. Petitioner Union had filed an application on 15.12.2015 for declaration of its Office Bearers as Protected Workmen for the year 2015-16 and submitted that they had sent an application to management on 10.03.2015, but the management failed to declare the office bearers as protected workmen within 15 days of the receipt of the list. Sh. Tej Bahadur, the Asstt. Labour Commissioner, passed order on 15.12.2015 for declaration of 48 office bearers as protected workmen including Mr. Sanjay Kumar Singh. Petitioner union had sent a notice of Agitation including strike dated 25.05.2016 to management stating that respondent had transferred 146 workers vide its office order F No. AAI/AT/FS/F-60/2016-EW/1569-1614 dated 20.05.2016 and vide another order No.AAI/RHQ-NR/AT/FS-60/Attachment/ EW/ 2016/1555-1568 dated 20.05.2016 had transferred workers for four months on an attachment basis, and these orders are based on whims and fancies and indicative of malpractices and were contrary to even illegal Transfer Policy of respondent. He submitted that there was no provision for posting of any worker on attachment basis to a different establishment located distantly without payment of TA/DA for the period of attachment, protected workmen were being transferred during the pendency of conciliation and adjudication proceedings regarding the issue of Transfer Policy in violation of Section 33 of the Act. on 20.06.2016 Sh. Yashpal Tyagi, Deputy Chief Labour Commissioner (C) sent a letter stating that conciliation proceedings have taken place regarding the dispute between the management and the petitioner Union In regard to strike notice dated 23.09.2014, the Hunger Strike from 06.10.2014 and the indefinite strike from 13.10.2014. it was stated that the dispute pertaining to framing and introduction of legally valid and just Transfer Policy and staff Quarter Rule in accordance with established procedure of law i.e. as per provision of either as per section 42 of the Act or Industrial Employment (Standing order) Act remained unresolved and hence the conciliation proceeding ended in failure on 03.05.2016. Respondent management on 23.06.2016 sent a letter to the ALC (C) stating that regarding the protected workmen, the Respondent management had requested to the petitioner Union to forward some document in order to examine the issue regarding declaration of protected workmen for the year 2016-17. Petitioner Union during the conciliation proceedings on 04.07.2016 produced the Judgement dated 01.12.2015 of the Madras High court, passed in a similar case for declaration of protected workmen. The petitioner Union contended that the Respondent management had not responded to their request for declaration of protected workmen within 15 days from the date of submission of the request, and therefore all the workmen were deemed to be protected workmen as per list. It was recorded that Respondent management had issued a transfer order naming three of workmen from the list of protected workmen including Mr. Sanjay Kumar Singh-1. Petitioner Union sent a letter dated 26.07.2016 to the ALC (C) stating inter alia that the list of the office bearers of the Union to be declared protected workmen had been sent to the Respondent management vide letter dated 10.03.2016 and since the management had raised no objection within 15 days from the date of receipt of the list, the listed workmen stood automatically recognized as protected workmen. The Petitioner Union also reaffirmed that a dispute on the issue of protected workmen under Rule 61 (4) of the Industrial Dispute (Central) Rules, 1957 had been raised and was pending before the ALC (C). Respondent management had transferred three deemed protected workmen including Sanjay Kumar Singh, Rajwinder Singh and Lakhbir Singh during pendency of the dispute. Respondent management sent a letter dated 03.08.2016 stating therein that Sanjay Kumar Singh-1 should be relieved from Varansi with immediate effect, with the instructions to report to Amritsar. That on same day the Petitioner Union sent a letter to the Respondent management that any further order passed for transfer of Sanjay Kumar Singh, otherwise would amount to unfair labour practice under provisions of I.D. Act, 1947, but, respondent denied to pass any further order for transfer of Sanjay Kumar Singh, submitted that as per transfer policy only eight workmen were declared as protected workmen and only the workmen from recognized union were given exemption from transfer and there was no exemption to protect workmen of an unrecognized union. Respondent management ought to abide by the Section 33 (3) of the I.D Act, 1947, which prohibits alteration of the conditions of service of a protected workman during the pending conciliation proceeding. Respondent management was directed by the conciliation officer to submit its final stand. It has been decided to defer the relieving order dated 03.08.2016 till further orders. Conciliation proceeding was resulted into failure. Hence, he has filed the claim before this Tribunal with the prayer to direct management to frame proper Transfer Policy and Staff Quarter Rules as per the provisions of Airport Authority of India Act, 1994.

Respondent has filed the WS. He denied the averment made in his claim statement. He submits that claim petition is devoid of merit as it raised by un-recognised union of the management. He also submits that claim is not maintainable and deserves to be dismissed.

After completion of the pleadings, following issues has been framed vide order dated 09.10.2018 i.e.:-

1. Whether the claim is not legally tenable in view of the various preliminary objections?
2. In terms of the reference.

Now, come to the second case i.e. Composite No. 06/2017 where the workman have stated that management of authority have attempted to change the condition of service of Office Bearers, of the claimant Union, namely Sh. Sanjay Kumar Singh, Sr. Supdt. (FS), the Branch Secretary of the claimant Union at Varanasi from Varanasi to Amritsar, Sh. Rajvinder Singh, Sr. Supdt. (FS), the Organising Secretary at Amritsar from Amritsar and Sh. Lakhbir Singh, Sr. Supdt. (FS), Branch Vice President, Amritsar, from Amritsar to Dehradun Airport are neither routine transfer nor on the basis of any exigency.

As per provision of Section 33 of the Act during pendency of any conciliation proceedings before a Conciliation Officer or a Board or any proceedings before a Labour Court or Tribunal or National Tribunal in respect of Industrial Dispute, no employer shall change condition of service without express written permission of the Authority before which proceedings are pending. Management of Authority is attempting to change the condition of service of workmen.

After completion of the pleadings of Section 33, following issues has been framed vide order dated 09.10.2018 i.e.:-

1. Whether action of the management in transferring the office bearers of the claimant union namely Sanjay Kumar Singh-1, Rajvinder Singh, Lakhbir Singh From Amritsar to Dehradun and relieving order dated 25.10.2016 of Sh. Sanjay Kumar Singh-1, amount to unfair labour practice and are in violation of the provisions of the ID Act.
2. If so, to what relief the claimants are entitled to?

These cases are listed for cross-examination of the witness whose affidavit had already been filed, however, since long, nobody has been appearing on behalf of the claimant to substantiate their claim. Counsel for the respondent had stated that the Ld. Additional District Judge vide order dated 25.02.2022 had restrained the witness Mr. Rudrappa from using in any manner the letter head, stamps, seals, logo and the name of the plaintiff union in respect of business/affairs/activities of the said union. He further submits that since then, neither the AR of the claimant union has been appearing nor produced any witness.

In view of the facts on record that claimants have not been appearing since then to substantiate their claim. Their claim has been resulted into failure. Consequent thereto, their claim stand dismissed. Awards are accordingly passed. Copies of these awards are sent to the appropriate government for notification as required under section 17 of the ID act 1947. Files are consigned to record room.

ATUL KUMAR GARG, Presiding Officer.

Date: 20.11.2024

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2309.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयर इंडिया, आईजीआई एयरपोर्ट टर्मिनल के प्रबंधन के संबद्ध नियोजकों और श्री विश्राम मीना द्वारा आल इंडिया सेंट्रल पीडब्लूडी (एमआरएम) कर्मचारी संगठन के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नई दिल्ली-2, पंचाट (रिफरेन्स नं.- 90/2014) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. जेड – 16025-04-2024-आईआर (एम) -154]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2309.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Reference No. 90/2014**) of the **Central Government Industrial Tribunal cum Labour Court, New Delhi-2** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Air India, IGI Airport Terminal and Shri Vishram Meena through All India Central PWD (MRM) Employees Association** which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. Z-16025-04-2024-IR (M)-154]

DILIP KUMAR, Under Secy.

ANNEXURE**BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI****I.D. NO. 90/2014****Sh. Vishram Meena and Sh. Moti Lal Meena, S/o Sh. Nanag Ram Meena, (Loader),**

Through General Secretary,

All India Central PWD (MRM) Karamchari Sangathan (Redg),

House No. 4823, Gali No. 13, Balbir Nagar Extension,

Shahdra, Delhi-110032.

Versus

1. The General Manager,**Air India, IGI Airport Terminal No.-2, New Delhi.***Appearance:**For Claimants: Manish Kumar and Sh. Animesh Verma, Ld. ARs with the claimant Sh. Vishram Meena.**Managements: V.P. Gaur, Ld. AR for the management.***AWARD**

This is an application **U/S 2A of the Industrial Disputes Act (here in after referred as an Act)** filed by Sh. Vishram Meena and 07 others including Sh. Moti Lal Meena for reinstatement in their respective services. Sh. Moti Lal Meena S/o Sh. Nanak Ram Meena was appointed as a Loader with above management w.e.f. 18.03.1998 and his services were terminated by the management w.e.f. 10.06.1998. They had filed an Industrial Disputes before the Hon'ble Assistant Labour Commissioner (Central) New Delhi for reinstatement. During the course of hearing on 09.03.2004, the management had agreed to reinstate the services of the workmen subject to availability of sanctioned posts and the workmen were also given the liberty that if their services are not regularized within the reasonable time, workmen will be free to approach the competent judiciary for reinstatement of their services. Out of eight workmen two workman Sh. Ram Lakhna Meena and Sh. Ram Prasad Meena have died and Sh. Gopal Prasad Meena have been appointed as Teacher under Rajasthan Government, Sh. Shiv Lal Meena have been appointed by Post Office in Rajasthan, Sh. Goyla Ram Meena have got a govt. job at TJ Airport, Jaipur and Sh. Shiv Charan Meena have also been appointed as Motor Lorry Driver with Rajasthan Police. Only two workmen Sh. Vishram Meena and Moti Lal Meena are still unemployed. These two workmen are in regular touch with the management and verbally requesting them since long for reinstatement of their services but the management is not entertaining them. The workman Sh. Moti Lal Meena has sent his representation to the management on 28.02.2014 but, no reply has been given by the management till date. These workmen belong to the poor family and Schedule Tribe. The Junior workman connected to this case i.e. Sh. Banwari Lal Meena, Chottey Lal Meena, Chutan Lal Meena and Sh. Hem Raj Meena are still working there. That to employ the junior workmen and terminate the services of senior workman is severe violation of provisions of the ID Act, 1947 and also comes under the definition of unfair labour practices. The management had not given any notice, notice pay and retrenchment compensation to the workman at the time of their termination. The workmen have again filed their case before the appropriate authority on 11.06.2014, but, it was resulted into failure. Hence, they have filed the present claim.

W.S has been filed by the respondent. He denied the averment made in his claim statement. He also submitted that in the statement of claim prayer mentioned therein is in respect of Sh. Motilal Meena and the same has also been signed by the same person but, in the contents of this statement claim at various places, Sh. Vishram Meena's name is appearing as one of the claimants. The statement of claim has also not been signed by Sh. Vishram Meena. He has submitted that claims are liable to be dismissed.

After completion of the pleadings, following issues has been framed vide order dated 25.02.2016 i.e.:

1. Whether the workman Sh. Moti Lal Meena is entitled to be reinstated from date of his termination of his services with full back wages? If so its effect?
2. Whether the workman Sh. Moti Lal Meena had completed 240 days in calendar year during the tenure of service? If so its effect?
3. Whether there is relationship of workman of the management between the employee and employer? If so its effect?
4. Whether the workman Moti Lal Meena was casual labour for short period due to exigency of the work by the management.

5. To what relief the workman is entitled to and from which date?

Evidence of WW1 i.e. Sh. Moti Lal Meena and MW1 i.e. Ms. Rachna Aarya have been concluded and their examination have also been done. Now, the matter is listed for argument.

I have heard the argument on behalf of both the parties at bar. At that time of argument, this tribunal found that this claim petition was filed by the claimants in the year 2014, much beyond the period of limitation prescribed U/s 2-A (3). Before we proceed further, it is necessary to produce the text of section 2-A:

“2-A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute.- [(1)] where any employer discharges, dismisses, retrenches, or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.

(2) Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this act and all the provisions of this act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1).

A perusal of the aforesaid section would go to show that a dispute connected with or arising out of discharge, dismissal, retrenchment or otherwise termination of services of the workman can be directly agitated by workman U/s 2-A of the act and it is not necessary that such disputes should be sponsored by the trade union or a substantial number of workmen. However, what is required is that workman who has been discharged, dismissed, retrenched or terminated as specified in sub-section (1) of section 2-A can make an application directly to Labour Court or Tribunal for adjudication of his individual dispute after expiry of 45 days from the date he has made an application to conciliation officer of appropriate government for conciliation of dispute. Sub-section 3 of section 2-A lay down the time limit for making such application to Labour Court or the tribunal. It provides that such application to Labour Court or tribunal shall be made before expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of services as specified in sub-section-1. This right is available to the workman without any effect upon remedy available in section 10 of the act.

Here admittedly, workmen had filed their claim in the year 2014 after more than 16 years of their termination which is beyond the prescribed limit for filing the claim U/s 2(A) of the I.D Act. Hence, claim petition stands dismissed. Award is accordingly passed. A copy of this award is sent to the appropriate government for notification as required U/s 17 of the I.D Act. File is consigned to record room.

ATUL KUMAR GARG, Presiding Officer

Date 23th October, 2024

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2310.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स दिल्ली इंटरनेशनल एयरपोर्ट प्राइवेट लिमिटेड; मेसर्स आकांक्षा ग्लोबल लोजिस्टिक्स प्राइवेट लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और श्रीमती दयावती के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, नई दिल्ली-2, पंचाट (रिफरेन्स न.- 42/2017) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. जेड – 16025-04-2024-आईआर (एम) -155]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2310.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Reference No. 42/2017) of the **Central Government Industrial Tribunal cum Labour Court, New Delhi-2** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Delhi International Airport Private Limited; M/s Akanksha Global Logistics**

Private Limited and **Smt. Dayawati** which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. Z-16025-04-2024-IR (M)-155]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

I.D. No. 42/2017

Smt. Dayawati, W/o of workman Late Sh. Krishna Sharma,

House No. 190, Village- Rampur, Post-Janola,

Haryana, Gurgaon-1222503.

Versus

1. M/s Delhi International Airport Pvt. Ltd.

Represented by Sh. I.P. Rao, CEO,

New Udaan Bhawan, IGI Airport Terminal-3,

New Delhi-110037.

2. M/s Akansha Global Logistics Pvt. Ltd.

(old name-M/s Akansha Enterprises)

represented by Sh. Vinod Kumar Anand, A-2nd Floor, Road No. 6, Near Hotel Landing view NH8,

Mahipalpur Extn. New Delhi-110037.

Appearance:

For Claimant: None

Managements: Sh. Manish Sehrawat, Ld. AR for M-1 i.e. DIAL.

None for management-2.

AWARD

The appropriate government had sent the reference referred dated 11.09.2017 to this tribunal for adjudication with the following words.

“Whether the action of the management of M/s Akansha Global Logistics Private Limited (old name M/s Akansha Enterprises) in terminating the services of SH. Krishna Sharma S/o Late Panna Lal Sharma without settling his legal dues viz. wages, leave encashment, bonus, retrenchment compensation notice pay, gratuity is illegal and unjust? If so, what relief he is entitled to and what directions are necessary in this regard.”

After receiving the reference, both parties were given notice. On behalf of the claimant, his wife had filed the claim statement because in between claimant was expired. Wife of the deceased workman in her statement stated that his husband had been working as an Import Executive with the management no. 1. Deceased workman was working with sincerity and honesty and never gave a chance to complain. Management-2 has a continuous contract with Management-1 since the deceased workman was working. Management did not provide any legal facilities as per the labour laws to the deceased workman. Workman attained the age of superannuation i.e. 60 years, but instead of giving the retirement benefit, management had taken the advantage and took the work continuously with the deceased workman. Management-2 had changed his name M/s Akansha Enterprises to M/s Akansha Global Logistics Pvt. Ltd. Management had stopped the monthly salary of four months i.e. May, June, July and August, 2015 and had terminated the services of the workman on 19.09.2015 without assigning any reason as such he had made prayer that the management be directed to pay the earned wages of May 15 to August 15, 2015.

Management-1 had filed the reply denied the employer & employee relationship between the management and the deceased workman. Present dispute is bad in law. He submits that the claim qua him be dismissed. Management-2 had been proceeded ex-parte vide order dated 02.04.2019.

After completion of the pleadings, following issues has been framed vide order dated 24.05.2019 i.e.:

1. Whether the proceeding is maintainable.
2. Whether the termination of the workman by M2 is illegal and unjustified.

3. Whether the proceeding is maintainable against M1.
4. To what relief the LRs of the workman is entitled to.

Now, the matter is listed for cross-examination of the workman. Wife of the deceased claimant has not been appearing for cross-examination since long, inspite of providing a number of opportunities.

In these circumstances, when the LRs of the claimant has not been appearing since long to substantiate his claim, it appears that she is not interested to pursue the case of her deceased husband. Claim of the deceased claimant stands dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

ATUL KUMAR GARG, Presiding Officer

Date 28th October, 2024

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2311.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सचिव, डाक विभाग, केंद्रीय सचिवालय, नई दिल्ली; डाकघर अधीक्षक, फरीदाबाद मंडल, एनआईटी फरीदाबाद; पोस्टमास्टर, प्रधान डाकघर बल्लभगढ़, फरीदाबाद; पोस्टमास्टर, डाकघर, गाँव गदपुरी, तहसील और जिला पलवल, के प्रबंधतंत्र के संबद्ध नियोजकों और श्रीमती वीना रानी @ वीना रानी, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-2, चंडीगढ़, पंचाट (संदर्भ संख्या 333/2013) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. एल – 40012-101-2013-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2311.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 333/2013) of the **Central Government Industrial Tribunal cum Labour Court -II, Chandigarh**, as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Secretary, Department of Posts, Central Secretariat, New Delhi ; The Superintendent of Post Offices, Faridabad Division, NIT Faridabad; The Postmaster, Head Post Office Ballabgarh, Faridabad; The Post Master, Post Office, Village Gadpuri, Tehsil and Distt. Palwal, and Smt. Veena Rani @ Veena Rani, Worker**, which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. L-40012-101-2013-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

**In the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh
(Presided over by Mr. Kamal Kant).**

ID No. 333/2013

Registered on:-24.02.2014

Smt. Veena Rani @ Veena Rani W/o Sh. Guru Dutt Sharma, R/o VPO Gadpuri, Tehsil and Distt. Palwal.

----Workman/ Applicant

Versus

1. Union of India through its Secretary, Department of Posts, Central Secretariat, New Delhi.
2. The Superintendent of Post Offices, Faridabad Division, NIT Faridabad.
3. The Postmaster, Head Post Office Ballabgarh, Faridabad.
4. The Post Master, Post Office, Village Gadpuri, Tehsil and Distt. Palwal. ----Respondents/ Managements

Present:- Sh. Anil Shukla, AR for Workman.

Sh. Alankrit Bhardwaj, AR for Management.

AWARD : 13.12.2024

1. The present reference has been made by Government of India/Bharat Sarkar Ministry of Labour/Shram Mantralaya vide Reference No.L-40012/101/2013 (IR(DU) under Clause (d) of sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Dispute Act, (hereinafter called as ID Act). The reference is as follow:

“Whether the demand of Smt. Veena Rani @Veena Devi, Ex-BPM (GDS at Gadpuri Post Office, against Supdt. of Post Offices, Faridabad Division, NIT, Faridabad and other over the issue of termination of her services w.e.f. 19.05.2011 and requested for reinstatement in service with continuity of service with full back wages, is just, valid and legal? If so, what benefits the workman is entitled for and what directions are necessary in the matter?”

2. Brief facts as stated by the claimant are that she was in the service of the respondents at their post office situated in Village Gadpuri, Tehsil and Distt. Palwal as BPM (Clerk) within the area of respondent no.3. The claimant remained in the employment from 07.05.2010 and worked regularly and continuously till 19.05.2011 and was being paid wages @5400/- per month and used to do clerical work there. Despite of the fact that she has completed more than one year of services, she was illegally terminated without giving any reason or any show cause notice in violation of provisions of ID Act.

3. Against the illegal termination, the claimant raised issued before the Assistant Labour Commissioner (Central), Karnal (hereinafter called as ALC Karnal). However, the matter could not be settled. Hence this reference.

4. Notice of the application was given to the respondents who filed written statements raising several preliminary objections, inter alia that this court has no jurisdiction as only competent Court with regard to redressal of grievances and disabled employees of the Government of India is the Central Administrative Tribunal under the Administrative Tribunals Act, 1985. On merit, it is stated that the claimant had worked as outsider Gramin Dak Sevak Branch Postmaster for 3 months from June, 2010 to August, 2010 as a stop-gap arrangement at Gadpuri EDBO due to death of regular incumbent Smt. Manjula Devi. In September, 2010, Smt. Rekha Rani worked as Gramin Dak Sevak Branch Postmaster as outsider in place of the applicant. Applicant has not completed 240 days of services as she worked only from June, 2010 to August, 2010 and was paid wages for that period. She was not employed by the Department and worked as outsider Gramin Dak Sevak Branch Postmaster for a short period. Remaining averments have been denied and it is prayed that claim of the applicant be dismissed.

5. In order to prove her case, claimant herself appeared and filed her Affidavit WW1/A along with Annexure Mark A and Mark B and closed her evidence. Thereafter, respondents have examined Sh. Rajender Kumar as MW1, who tender his affidavit as MW1/A and document W1 and W2 and thereafter, respondents closed their evidence.

6. I have given due consideration to the arguments advanced by Id. counsel for both the parties.

7. There is no dispute about the preposition of law that onus to prove that workman was in the employment of management is always on the workman/claimant and it is for the workman to adduce evidence to prove factum of his employment with the management. Such evidence may be in the form of receipt of salary of wages for 240 days or record of his/her appointment or engagement for that year to show that he/she has worked with the employer for 240 days or more in a calendar year. In this regard, reference may be made to Batala Coop. Sugar Mills Ltd. Vs. Sowaran Singh(2005) 8 Supreme Court cases 481 as well as Director Fisheries Terminated Division Vs. Bhikubhai Meghajibhai Gavda(2012) 1 SCC 47.

8. Smt. Veena Rani has stated that she was in service of the respondent in the post office situated at Gadpuri, Tehsil and District Palwal, as BPM (Clerk). She however, deposed in her affidavit that since 1983, Smt. Manjula Devi W/o Sh. Dev Sharma, R/o Village Gadpuri has been working as BPM (Clerk) in the post office and whenever Smt. Manjula Devi did not attend the office due to her illness, she used to work as BPM in place of Smt. Manjula Devi. After the death of Smt. Manjula Devi on 07.05.2010, she was appointed to work as BPM in her place on regular basis and she has been working under the control and charge of Superintendent of post offices situated at Faridabad Division and she worked till 19.05.2011 and her services were terminated on that day by the post master, head post office in an illegal and arbitrary manner. It is also maintained that even the inspection was made by the higher officials and in their report, they have admitted that the deponent was working with them in September, 2010, October 2010 and April 2011 and original record is with the department. She worked 240 days without break and no notice or pay in lieu of notice or retrenchment compensation was paid to the deponent at the time of termination of her services. In her cross-examination, she has stated the department has given advertisement for the post and she had not given application, but her mother-in-law gave application in her name. Appointment letter was not on record, no interview was conducted for this post.

9. On the other hand, Sh. Rajinder Kumar, Superintendent of Post Offices, Faridabad Division, Faridabad, in his affidavit stated that the applicant had worked from June 2010 to August 2010 as outsider Gramin Dak Sevak Branch Postmaster. The regular Gramin Dak Sevak are governed by the by the Rules known as Department of Posts, Gramin Dak Sevaks (Conduct and Employment) Rules 2011. She worked from June 2010 to August 2010 as a stopgap arrangement due to death of regular incumbent Smt. Manjula Devi and thereafter, in September 2010, Smt. Rekha

Rani worked as Gramin Dak Sevak Branch Postmaster as Outsider in place of the applicant. Therefore, the claim of the applicant in the present proceedings is totally misconceived. Applicant has not completed 240 days in a year. Applicant was paid wages for the period she had worked as outsider GDS. However, this witness in his cross examination has stated that applicant was given Time Related Continuity Allowance (TRCA) in the month of October 2010. He also admitted that name of applicant was mentioned in audit report Ex.W-2.

10. At the cost of repetition, it is made clear that it was the duty of the workman to prove that she has worked for 240 days preceding the year of his alleged retrenchment/termination. However, in this case, workman has not been able to prove the same. She claimed that she worked as BPM (Clerk). BPM are certainly falls under the category of GDS (Rule-3, sub rule D of GDS Rules, which is reproduced as follow:-

“Gramin Dak Sevak” means:-

- i. a Branch Postmaster
- ii. an Assistant Branch Postmaster
- iii. a Dak Sevak

11. Thus, ABP is GDS falls under the category of GDS and thus she was the GDS. However, applicant in her pleadings has stated that she was working as ABP (Clerk). Clerks are governed by Central Civil Services Rules, whereas GDS (ABP) are governed by GDS Rules. Moreover, as per payment made to the workman, she worked From June 2010 to August 2010 Exhibit W1. She stated in her deposition that she was on regular basis in the department. However, she has not placed on record any appointment letter and rather in her cross examination, she has stated that she has not applied in pursuance of the advertisement and was not interviewed.

12. On the other hand, case of respondent is that she was engaged in place of Smt. Manjula Devi as outsider BPM and Ex.W-1 also proves it. No documentary evidence has been placed on record by the workman. She was an outsider GDS engaged by the department. In fact, as per procedure when an GDS appointed by the department is unable to perform his duty then as a stop gap arrangement, a temporary arrangement is made until regular incumbent come on that post. The substitute appointment is sporadic depending on the period during which the regular is not appointed whatsoever reason. Thus, it is clear and proved that applicant rendered his services not an employee of management but as nominee of GDS as mentioned in Ex.W-1. It is also pertinent to mention that as GDS (outsider) is not entitled for any termination notice as per Gramin Dak Sewak (Conduct and Engagement) Rules, 2011. The learned counsel for the applicant could not place any rule before me that any notice of termination under the GDS Rules was required before retrenchment by the management of the applicant. Moreover, the applicant has also failed to prove that she was appointed on regular basis as Clerk (BPM), rather applicant was appointed as an outsider GDS as stop gap arrangement.

13. So far as this contention of the Id. counsel for the workman that record was with the department and the department has not produced the record and therefore, adverse inference be drawn against the management, the same is devoid of merit in view of the fact that there are certain rules under which the record can be weeded out. In the present case, it is case of the department that the applicant was appointed as outsider GDS. Thus there was no question of retaining record by the department except record of payment of TRCA and the same has been placed on record by the department as Exhibit W-1.

14. Thus in this way, applicant has failed to prove her case that she worked as Clerk (ABP) on regular basis for 240 days preceding the year of her termination. Moreover, this argument of the Id. counsel for the workman that she was paid salary in the month of October, 2010, this means that she worked till September 2010 and inference should be drawn from it that she worked till September 2010 is misconceived as the salary and allowances can be paid later on also. There is no conclusive evidence placed on record by the applicant regarding her employment as clerk with the department on regular basis as stated earlier BPM is GDS and even workman was not GDS as she was working in place of GDS as outsider. In this way, applicant, who was working as GDS (outsider) has failed to prove her case that she worked as ABP (Clerk). Thus there was no necessity of issuing notice or pay in lieu of notice or retrenchment compensation by the respondent as provided under Section 25F of the Act.

15. Hence, the reference dated 06.02.2014 is decided against the applicant and she is not entitled for any relief. Let copy of this award be sent to the appropriate Government as required under Section 17 of the Act for Publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2312.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारती एयरटेल सर्विसेज लिमिटेड, एयरटेल सेंटर, उद्योग विहार; भारती एयरटेल सर्विसेज लिमिटेड, बठिंडा पंजाब, के प्रबंधन के संबंध में नियोजकों और श्री मुख्तियार सिंह सैनी, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार

औद्योगिक अधिकरण- सह-श्रम न्यायालय-2, चंडीगढ़, पंचाट(संदर्भ संख्या 61/2015)को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. एल – 40011-49-2015-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2312.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 61/2015) of the **Central Government Industrial Tribunal cum Labour Court -II, Chandigarh**, as shown in the Annexure, in the Industrial dispute between the employers in relation to **Bharit Airtel Services Ltd ., Airtel Central, Udyog Vihar; Bharit Airtel Services Ltd ., Bathinda Punjab, and Shri Mukhtiar Singh Saini, Worker**, which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. L-40011-49-2015-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH.

Present: Mr. Kamal Kant, Presiding Officer.

ID No. 61/2015

Registered on:- 25.02.2016

Sh. Mukhtiar Singh Saini S/o Sh. Rajinder Singh, H.No. 625, Street No.1, Tibba Side, Ram Colony, Hoshiarpur-146001.

---Applicant

Versus

1. Bharti Airtel Services Ltd. Airtel Central, Plot No. 16, Udyog Vihar, Phase-IV.

2. Bharti Airtel Services Ltd. Opposite Sector 48, Rose Garden Complex, Garden Chowk Gonioana Road, Bathinda, Punjab-151001.

-----Respondents

**Present:- Workman in person along with Sh. S.S. Maini, AR for workman.
Sh. Sanjiv Pabbi, AR for Respondent Management.**

AWARD

Passed On:-22.10.2024

1. Central Government vide Notification No.L-40011/49/2015 (IR(DU) dated 17.02.2016, under Clause (d) of sub-section (1) of Section 10 of the Industrial Dispute Act, 1947 (hereinafter called as the Act), has referred the following industrial dispute for adjudication to this Tribunal:-

“whether the action of the management of Bharti Airtel Services Limited for not granting annual increment along with arrears from 2009 to the Workman Shri Mukhtiar Singh Saini S/o Sh. Rajinder Singh is legal and justified? If not, what relief the workman is entitled to and from which date?”

2. It has been averred by the workman that he worked as skilled worker w.e.f. 20.08.2005 to 19.08.2019 with the respondent. He was transferred to Delhi in November 2007 and in September 2009 at Bathinda. Workman was getting salary of Rs.9500/- per month (including conveyance and HRA). Workman worked hard and obediently.

3. In the year 2009, the management removed the job of 96 workmen illegally. After intervention by of Hon'ble ALC (South Zone), Pushpa Vihar, Pushpa Bhawan, New Delhi, all the workmen were reinstated with full backwages with continuity of service. After reinstatement, some workers were transferred outside Delhi and all were denied promotions incentives, increase in wages including transfer allowance. The workman also denied annual increment from 2012 onwards.

4. The workman joined workplace at Bhatinda in September 2009 with the salary of Rs.9500/- but was denied annual increment (on an average of 10-15% per year). The management is doing this with malafide intention and

ulterior motive to teach the workman a lesson because he had gone to the Hon'ble ALC (South Zone) against illegal and unjustified termination from service by the management. The other workman, who are working since 2009, are getting wages ranging from Rs.22,000/- to Rs.35,000/- per month. This is malafide, illegal and violation of the Act.

5. Workman's present salary should be Rs.25,000/- per month (with 15% increase from 2009 as in being given to other workmen having same nature of work). Instead the workman is getting Rs.9500/- (Bank report attached). The management gave a letter to the workman dated 01.06.2008 explaining breakup of the salary in which Gross Salary is Rs.10,451/- per month and total cost is Rs.11,355/- per month (01.06.2008 letter is attached).

It is therefore, prayed that the management may be directed to pay the annual increment along with arrears from 2009 onward to the workman. Management be directed to explain that why the workman is getting Rs.9500/- per month when office order was given to him to pay Rs.10,451/- per month w.e.f. 01.06.2008.

6. The management filed written statement raising objection that application is not maintainable under Section 2A of the Act. It is further stated that as per Section 2A of the Act, dismissal, discharge, retrenchment or otherwise termination of individual workmen could have been referred and further the case of claimant is not maintainable under Section 2K of the Act, which provides that if conditions of service are violated, then the case can be filed by the aggrieved party through Union. It is therefore maintained that espousal of the present claim through purported union does not establish any espousal in the eyes of law. It is maintained that none of the employees of the company member is member of the purported union. The demands raised through claim are unfounded. It is further stated that the workman has been rated A4 for the years 2008-2009, 2009-10, 2010-11, 2011-12, 2012-13, 2013-14 and A5 in the assessment year 2014-15 (lowest rating procured by an employee based upon annual assessment). It is submitted that an employee working with the management is awarded with increment based upon performance and not as a matter of right.

7. It is further stated that the false claim was referred by the Conciliation Officer, New Delhi to the Labour Court, Delhi. However, the applicant has withdrawn his case from the Court of Sh. Chandra Shekhar, POLC, Karkardooma Courts, Delhi and this fact has been concealed by him from the Court.

8. Parties were given opportunity to lead evidence.

9. The workman has examined himself as WW1 and filed his affidavit in evidence as Ex.WW1/A and has been cross-examined by the learned authorized representative of management.

10. The management has filed affidavit of Varun Vashisht, Manager, HR, M/s Bharti Airtel Ltd., IT Park, Chandigarh, who filed his affidavit in evidence as Ex.MW1/A and has been cross-examined by the learned authorized representative of workman.

11. I have given due consideration to the arguments advanced by both the parties.

12. In this case, the claim of workman has been espoused by BSNL Contractor Worker Union (AITUC) (hereinafter called as the Worker Union), in which the workman has claimed that he was entitled for increment, which has been denied to him. It is settled principle of Law that the dispute, which is capable of adjudication under Section 10(1) of the Act should be an industrial Dispute coming under Section 2K at the instance of the union or by an individual workman under Section 2A in the matter of dismissal, discharge, retrenchment or termination of an individual worker.

13. It is relevant to mention here Section 2k and 2A of the Act, which are reproduced as below:

Section 2k:-

"industrial dispute" means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;

Section-2A.

[2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute:- [1] Where any employer discharges, dismisses, retrenches, or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.]

[2]-----

[3]-----

As per Section 2k, it impacts the interests of not just one worker but multiple workers as a class who work in an industrial enterprise. Individual disputes become collective industrial disputes when community interests are added to them. Whereas a perusal of Section 2A reveal that individual worker can file industrial dispute when the dispute is related to his discharge, dismissal, retrenchment or termination or arising out of such discharge, dismissal, retrenchment or termination. In the present case, there is no question involved of discharge, dismissal, retrenchment or termination of the workman. Hence, the dispute does not fall under the definition of Section 2A.

14. The question in this case is whether non-giving of increment to Sh. Mukhtiar Singh Saini is illegal. In this case, no common cause is involved and dispute is only with regard to non-giving of increment to Sh. Mukhtiar Singh Saini, whereas under Section 2K of the Act, only those disputes, which involved common cause and which are espoused by Union, can be referred. However, in the present case, only dispute relating to one workman has been referred by the Ministry of Labour and Employment, which cannot be termed as Industrial Dispute. Individual Dispute become Industrial Dispute, when it falls under the definition of Section 2A of the Act, when it relate to dismissal, discharge, retrenchment or termination of the individual. Hon'ble Kerala High Court in Case of Manglam Publication (India) Pvt. Ltd. Vs. Thempy Elpe and Another (2006 LAB IC 1947) while referring to the judgment of Hon'ble Supreme Court of India in case titled as Bombay Union of Journalist vs The Hindu, Bombay, 1961 II) LLJ 436 : (AIR 1963 SC 318), has held as follow :-

*"The applicability of the Industrial Disputes Act to an individual dispute as distinguished from a dispute involving a group of workmen is excluded, unless the workman as a body or a considerable section of them make a **common cause** with the individual workman."*

In the present case, applying the ratio of the aforesaid law referring the case under Section 2K is not maintainable as in the present case, there is no common cause of worker is involved. In the present case, the reference is made by the Government of India/Bharat Sarkar Ministry of Labour/Shram Mantralaya is "whether the action of the management of Bharti Airtel Services Limited for not granting annual increment along with arrears from 2009 to the workman Shri Mukhtiar Singh Saini S/o Sh. Rajinder Singh is illegal and justified? If not what relief the workman is entitled to and from which date?"

However, the first para of the reference order dated 18.02.2016 read as follow:

"NO..L-40011/49/2015 (IR(DU)): WHEREAS the Central Government is of the opinion that an industrial dispute exists between the employers in relation to the management of Bharti Airtel Services Ltd, and their workmen in respect of the matters specified in the Schedule hereto annexed."

A perusal of the aforesaid para made it ample clear that the matter has been referred to this court as if there exist any dispute between *Bharti Airtel Services Ltd. and Workmen*, word used is '**Workmen**'. Thus emerges from aforesaid reference if the dispute is between Bharti Airtel Services Ltd. and many workers (workmen). However, the present dispute relate only to one individual workman, which could not have been referred under Section 2K of the Act. The reference is thus bad in law. The judgment of Hon'ble Supreme Court of India in case titled as Bombay Union of Journalist vs The Hindu, Bombay, 1961 II) LLJ 436 : (AIR 1963 SC 318), has held as under:

"In the present case members of the Union who were not workmen of the employer against whom the dispute was sought to be raised, seek by supporting the dispute to convert what is prima facie an individual dispute into an industrial dispute. The principle that the persons who seek to support the cause of a workman must themselves be directly and substantially interested in the dispute in our view applies to this class of cases also: person who are not employees of the same employer cannot be regarded as so interested, that by their support they may convert an individual dispute into an industrial dispute. The mere support to his cause by the Bombay Union of Journalist cannot therefore assist the claim of Salivateeswaran so as to convert it into an industrial dispute."

15. Further, Delhi Court in the case titled as Management of Messers Hotel Samrat versus Government of NCT and others, relevant lines of para no.12 are reproduced as under:

*"The dispute between an individual workman and the employer can be treated as an industrial dispute only where the workmen as a body or a considerable section of them, **make common cause** with the **individual workman** and espoused his demand. The question arises how the espousal can be inferred. Espousal means that the dispute of an individual workman is adapted by union as its own dispute or a large number of workmen give support to the cause of an individual workman."*

Thus individual reference cannot be termed as industrial dispute and such is not maintainable.

16. Further in this case, the workman has not placed on record any evidence how he was entitled for increment and who were the other workmen, whom increments were given, who have been similarly placed.

17. So far as the stand of the management that since workmen was having lower grade of assessment of his work, therefore, he was not entitled for any increment. No contrary evidence has been given by workman that he was

entitled for increment despite being doing poor performance as is told by the witness of the management in his deposition into the court, wherein he has specifically stated that workman has been rated A4 for the years 2008-2009, 2009-10, 2010-11, 2011-12, 2012-13, 2013-14 and A5 in the assessment year 2014-15 (lowest rating procured by an employee based upon annual assessment).

18. Keeping in view the above discussion, the Reference dated 17.02.2016 is held to be not maintainable being not covered under the Act.

19. Let copy of this award be sent to the appropriate Government as required under Section 17(1) of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2313.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक, केन्द्रीय पशु प्रजनन फार्म, सूरतगढ़ (राजस्थान), प्रबंधन के संबद्ध नियोजकों और, श्री मोती लाल, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय, जयपुर चाट(संदर्भ संख्या आईडी नंबर 30/2008, को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. एल – 42012-102-2000-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2313.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. ID.No. 30/2008**), of the **Central Government Industrial Tribunal cum Labour Court, Jaipur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Director, Central Animal Breeding Farm, Suratgarh (Rajasthan), and Shri Moti Lal, Worker**, which was received along with soft copy of the award by the Central Government on 31.12.2024,

[No. L-42012-102-2000-IR (DU)]

DILIP KUMAR, Under Secy.

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पीठासीन अधिकारी

राधा मोहन चतुर्वेदी

I h-th-vkbZVh- i dj.k I a& 30@2008

Reference No. L-42012/102/2000-IR (DU)

Dated: 07.04.2008

श्री मोती लाल पुत्र श्री बट्टी प्रसाद यादव, निवासी— गौव—पो. भगवानसर, तहसील— सूरतगढ़, जिला— श्री गंगानगर (राज.)।

.....प्रार्थी

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1. निदेशक, केन्द्रीय पशु प्रजनन फार्म, सूरतगढ़, (राजस्थान)

.....अप्रार्थीगण/विपक्षी

उपस्थित:—

: श्री अनिल कुमार शर्मा, अभिभाषक — प्रार्थी।

: श्री मुकेश कुमार मीणा, अभिभाषक —विपक्षीगण।

%vf/kfu.k %

fnukd %16-10-2024

1. श्रम मंत्रालय भारत सरकार नई दिल्ली द्वारा दिनांक 07.04.2008 को औद्योगिक विवाद अधिनियम 1947 (जिसे आगे मात्र अधिनियम कहा जावेगा) की धारा 10 (1) (डी) व 2A के अन्तर्गत प्रदत्त शक्तियों के अनुसरण में निम्नांकित औद्योगिक विवाद न्यायनिर्णयन हेतु इस अधिकरण को संदर्भित किया गया :—

“Whether there exists any justification in raising the dispute after delay of 6 to 7 years by the applicant and whether the action of the management of the Central cattle Breeding farm, Suratgarh in terminating the services of Shri Motilal Yadav, is legal and justified? If not, what relief the applicant is entitled to?”

2. प्रार्थी की ओर से दिनांक 16.04.2010 को दावे का अभिकथन प्रस्तुत करते हुये यह कहा गया है कि उसकी नियुक्ति स्थाई एवं स्वीकृत पद के विरुद्ध दिनांक 15.01.1986 को की गई थी। प्रार्थी बिना किसी व्यवधान के दिनांक 30.10.1988 तक श्रमिक के पद पर दैनिक वेतन पर कार्यरत रहा। प्रार्थी को 15.50 रु. की दर से वेतन भुगतान किया जाता था। विपक्षी ने दिनांक 30.10.1988 को बिना कोई कारण बताये प्रार्थी को सेवा से पृथक कर दिया। प्रार्थी को न तो एक माह का नोटिस अथवा नोटिस वेतन दिया गया और न ही कोई प्रतिकर दिया गया। विपक्षी द्वारा की गई सेवा समाप्ति अधिनियम की धारा 25 F के अंतर्गत अवैध है। प्रार्थी से कनिष्ठ कई श्रमिक विपक्षी के अधीन कार्यरत हैं। सेवा समाप्ति के पूर्व कोई वरिष्ठता सूची नहीं बनाई गई। प्रार्थी ने सहायक श्रम आयुक्त (केन्द्रीय) जयपुर के समक्ष यह विवाद प्रस्तुत किया जिस पर कोई कार्यवाही नहीं की गई। दिनांक 07.07.2000 को समुचित सरकार द्वारा देरी के कारण विवाद को प्रेषित करने से इंकार कर दिया गया किंतु माननीय उच्च न्यायालय के आदेश पर विवाद को श्रम न्यायालय को प्रेषित करने का निर्देश दिया गया। अतः प्रार्थी को सेवा की निरंतरता एवं विगत वेतन परिलाभों सहित पुनः सेवा में लिया जावे।
3. दिनांक 19.10.2010 को विपक्षी ने वादोत्तर प्रस्तुत करते हुये वाद के तथ्यों को अस्वीकार किया। विपक्षी का कथन है कि प्रार्थी को दिनांक 24.02.1987 को सीजनल निश्चित अवधि के विषिष्ट कार्य के लिये काम पर रखा गया था। प्रार्थी को किसी स्थाई पद पर नियुक्त नहीं किया गया। दिनांक 23.06.1987 को प्रार्थी को सूरतगढ पुलिस ने गांजा रखने के अपराध में गिरफ्तार किया था। प्रार्थी लम्बे समय तक पुलिस हिरासत में रहा। प्रार्थी के विरुद्ध गंगानगर न्यायालय में प्रकरण चला। उसे दिनांक 28.01.1999 को दोष मुक्त किया। प्रार्थी का यह कहना गलत है कि दिनांक 30.10.1988 को बिना कारण बताये सेवा पृथक किया हो। पुलिस हिरासत से छूटने के बाद प्रार्थी ने स्वयं कार्य पर आना बंद कर दिया। दिनांक 07.07.1988 से केन्द्र सरकार ने दैनिक मजदूरों की भर्ती पर रोक लगा दी। प्रार्थी ने विपक्षी के अधीन 240 दिन से अधिक कार्य कभी नहीं किया। विपक्षी ने अधिनियम के किसी भी प्रावधान का उल्लंघन नहीं किया। इसलिये प्रार्थी कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।
4. प्रार्थी ने अपने साक्ष्य में स्वयं प्रार्थी मोतीलाल को परीक्षित किया किंतु कोई प्रलेख प्रदर्शित नहीं किया।
5. विपक्षी ने अपनी साक्ष्य में MW-1 डा. सन्तोष एम., निदेशक को परीक्षित किया और साक्ष्य में प्रदर्ष R&1 से R&4 तक प्रलेखों को प्रदर्शित किया।
6. दिनांक 26.09.2024 को मैंने उभयपक्ष के विद्वान अभिभाषकगण के तर्क सुने, उपलब्ध साक्ष्य एवं विपक्षी की ओर से प्रस्तुत निर्णय हिमांशु कुमार विद्यार्थी व अन्य बनाम स्टेट ऑफ बिहार (1997) 4 SCC 391 में पारित विधि पर मनन किया।
7. प्रार्थी का यह तर्क है कि विपक्षी ने दिनांक 15.01.1986 को प्रार्थी को मौखिक रूप से दैनिक वेतन भोगी श्रमिक के पद पर नियुक्त किया। उसे 15.50 रु. प्रतिदिन की दर से वेतन भी दिया गया। किंतु चूंकि प्रार्थी, कर्मचारी यूनियन का सदस्य है इसलिये दुर्भावना पूर्वक दिनांक 31.10.1988 को प्रार्थी को मौखिक रूप से सेवा से हटा दिया गया। प्रार्थी से संबंधित उपस्थिति एवं वेतन भुगतान का अभिलेख विपक्षी के अधिपत्य में है लेकिन विपक्षी ने यह अभिलेख जानबूझ कर प्रस्तुत नहीं किया। यदि विपक्षी इस अभिलेख को प्रस्तुत करते तो यह प्रमाणित हो जाता कि प्रार्थी ने विपक्षी के अधीन 240 दिन से अधिक कार्य किया है। जहाँ तक विवाद को विलम्ब से प्रस्तुत करने का प्रश्न है प्रार्थी ने सहायक श्रम आयुक्त (केन्द्रीय) जयपुर के समक्ष अपना विवाद प्रस्तुत किया था लेकिन समुचित सरकार द्वारा विवाद को न्यायनिर्णयन हेतु नहीं भेजा गया। इसलिये प्रार्थी ने माननीय राजस्थान उच्च न्यायालय के समक्ष याचिका प्रस्तुत की और उच्च न्यायालय के आदेश के अनुसार केन्द्र सरकार ने विवाद को प्रेषित किया। इस प्रकार प्रार्थी विलम्ब का दोषी नहीं है। प्रार्थी की ओर से माननीय राजस्थान उच्च न्यायालय द्वारा पारित आदेश दिनांक 04.03.2008 की फोटो प्रति आज अवलोकनार्थ प्रस्तुत की गई।
8. विद्वान अभिभाषक विपक्षी का यह तर्क है कि प्रार्थी स्वच्छ हाथों से सभी तथ्यों को अधिकरण के समक्ष नहीं लाया है, उसने यह तथ्य जानबूझ कर छुपाया कि अवैध गांजा आधिपत्य में रखने के अपराध में उसे सूरतगढ पुलिस ने गिरफ्तार किया था और दिनांक 23.06.1987 से वह पुलिस अभिरक्षा में रहा। पुलिस अभिरक्षा में रहने के कारण ही प्रार्थी स्वेच्छा से कार्यालय नहीं आया और मिथ्या तथ्यों के आधार पर 6-7 साल विलम्ब से यह विवाद प्रस्तुत किया। प्रार्थी को सीजनल कार्य के लिये एक निश्चित अवधि हेतु दिनांक 24.02.1987 को 3 माह के लिये रखा गया था। विपक्षी विभाग एक केन्द्र सरकार का विभाग है जहाँ नियुक्तियों के लिये संविधिक नियम बने हुये हैं। इसलिये विपक्षी विभाग को उद्योग नहीं माना जा सकता और कथित सेवामुक्ति छंटनी नहीं है। प्रार्थी अधिनियम की धारा 25 F के प्रावधानों का संरक्षण प्राप्त करने का अधिकारी नहीं है। उन्होंने अपने तर्क के समर्थन में हिमांशु कुमार विद्यार्थी व अन्य बनाम स्टेट ऑफ बिहार के प्रकरण में माननीय उच्चतम न्यायालय द्वारा पारित अधिमत का अवलम्ब लिया है।
9. मैंने उभयपक्ष के तर्कों एवं साक्ष्य पर विचार किया। इस विवाद में निम्नलिखित विचारणीय बिन्दु उत्पन्न हुये हैं:—
 1. क्या प्रार्थी को विपक्षी द्वारा दिनांक 15.01.1986 को दैनिक वेतन भोगी श्रमिक के पद पर नियुक्त किया गया तथा दिनांक 31.10.1988 को अधिनियम की धारा 25 F के प्रावधानों का अनुपालन किये बिना मौखिक रूप से सेवा मुक्त कर दिये जाने से सेवामुक्ति अवैध है?

.....प्रार्थी

2. क्या विपक्षी संस्थान उद्योग की परिभाषा में नहीं आता और हस्तगत विवाद औद्योगिक विवाद नहीं है?

.....विपक्षी

3. अनुतोष?

10. विचारणीय बिन्दुओं पर क्रमिक विनिश्चय इस प्रकार हैं:—

11. fopkj.kh; fclUnq l a[; k&1

12. इस बिन्दु के संबंध में प्रार्थी मोती लाल ने अपने अभिवचनों को पुनरावृत्त करते हुये दिनांक 15.01.1986 को उसकी नियुक्ति विपक्षी के अधीन स्थाई पद पर होना और दिनांक 31.10.1988 को उसे अकारण सेवामुक्त कर दैना कहा है। अपने प्रतिपरीक्षण में मोती लाल ने यह स्वीकार किया है कि 23 जून 1987, को गंगानगर की पुलिस ने उसे गांजा रखने के जुर्म में गिरफ्तार किया था तथा वह लगभग 8 दिन पुलिस की हिरासत में रहा था। उल्लेखनीय है कि प्रार्थी एक ओर तो 15.01.1986 से 30.10.1988 तक लगातार विपक्षी के अधीन बिना किसी व्यवधान के कार्य करने का कथन दावे में करता है और दूसरी ओर इन तथ्यों को छुपाते हुये साक्ष्य का शपथ-पत्र भी प्रस्तुत करता है। किंतु प्रतिपरीक्षा में वह मान लेता है कि 23 जून 1987, को उसे पुलिस ने अवैध गांजा रखने के अभियोग में गिरफ्तार किया था और वह 8 दिन हिरासत में भी रहा। प्रार्थी की इस स्वीकारोक्ति के कारण दिनांक 15.01.1986 से 30.10.1988 तक बिना किसी व्यवधान के प्रार्थी द्वारा कार्य करने का तथ्य मिथ्या प्रमाणित हो जाता है। यह स्पष्ट है कि प्रार्थी स्वच्छ हाथों से सभी तथ्यों का वर्णन करते हुये अधिकरण के समक्ष अनुतोष प्राप्त करने नहीं आया है वरन् सारवान तथ्यों को उसने स्वेच्छया छुपाया है।

13. प्रार्थी की ओर से न तो कोई नियुक्ति पत्र प्रस्तुत किया गया है, न ही सेवामुक्ति का आदेश। अपने प्रतिपरीक्षण में प्रार्थी यह भी स्वीकार करता है कि दिनांक 24.02.1987 को विपक्षी विभाग ने उसे 3 माह की अवधि के लिये सीजनल मजदूर के रूप में रखा था। वह स्पष्ट रूप से स्वीकार करता है कि विपक्षी द्वारा प्रारम्भिक रूप में उसकी नियुक्ति 12 रु. दैनिक मजदूरी की दर से 89 दिनों के लिये की गई थी। प्रार्थी की इस स्वीकारोक्ति को विपक्षी साक्षी डा. सन्तोष एम., के कथनों से पुष्टि मिलती है जिसमें साक्षी ने कहा है कि प्रार्थी मोतीलाल को सीजनल कार्यों के लिये आवश्यकता के अनुरूप आकस्मिक श्रमिक के रूप में रखा था। प्रार्थी का नियुक्ति पत्र प्रदर्श R&1, जो कि प्रार्थी द्वारा प्रस्तुत किये गये आवेदन प्रपत्र पर ही लिखा गया है, के अनुसार प्रार्थी को 24.12.1987 से 12 रु. प्रतिदिन मजदूरी पर रखा जाना प्रमाणित होता है।

14. साक्ष्य की इस स्थिति में विपक्षी द्वारा, प्रार्थी द्वारा वांछित प्रलेखों को प्रस्तुत न करना औचित्य पूर्ण प्रतीत होता है। दिनांक 22.03.2013 को अधिकरण द्वारा प्रार्थी से संबंधित उपस्थिति एवं भुगतान का अभिलेख, विपक्षी को प्रस्तुत करने का आदेश दिया गया था और यह भी कहा गया था कि आदेशित अभिलेख प्रस्तुत न करने की स्थिति में संबंधित अधिकारी का शपथ पत्र प्रस्तुत किया जावे। इस आदेश के अनुपालन में दिनांक 19.12.2013 को डा. आर.पी. श्रीवास्तव, निदेशक का शपथ पत्र प्रस्तुत करते हुये यह कहा गया है कि यह अभिलेख अत्यधिक पुराना होने के कारण खोजने योग्य नहीं है। सीजनल श्रमिक की कोई वरिष्ठता सूची नहीं बनाई जाती। वांछित अभिलेख 3 वर्ष की अवधि के बाद नष्ट कर दिया जाता है। सषपथ किये गये इन कथनों एवं प्रार्थी की सेवावधि मात्र 89 दिन होने के आधार पर विपक्षी के विरुद्ध कोई प्रतिकूल उपधारणा किये जाने का न्यायोचित आधार नहीं है।

15. साक्ष्य के इस विवेचन से प्रार्थी का दिनांक 15.01.1986 को नियुक्त किया जाना और 30.10.1988 तक लगातार कार्यरत रहने का तथ्य प्रमाणित नहीं हो पाया है। प्रार्थी स्वयं की स्वीकारोक्ति से 24.02.1987 से 23 जून 1987, तक कार्य करना ही प्रमाणित होता है जो कि मात्र 4 माह की अवधि है। इस अवधि के बाद प्रार्थी पुलिस अभिरक्षा में चला गया और वहाँ से उनमुक्त होने के पश्चात पुनः विपक्षी के अधीन कार्य करना प्रमाणित नहीं किया है। इस विवेचन के उपरान्त प्रार्थी का विपक्षी के अधीन कथित सेवामुक्ति तिथि के पूर्ववर्ती एक कलेण्डर वर्ष की अवधि में 240 दिन से अधिक कार्य करना प्रमाणित नहीं होता है। इसलिये प्रार्थी की सेवामुक्ति छंटनी की परिभाषा में नहीं आती है और प्रार्थी अधिनियम की धारा 25 F के प्रावधानों का संरक्षण प्राप्त करने का अधिकारी प्रमाणित नहीं होता है। अतः यह बिन्दु प्रार्थी के विरुद्ध निर्णीत किया जाता है।

16. fopkj.kh; fclUnq l a[; k&2

17. इस बिन्दु के अंतर्गत अभिभाषक विपक्षी का तर्क है कि विपक्षी संस्थान भारत सरकार के कृषि एवं पशु पालन मंत्रालय का अधीनस्थ कार्यालय है जिसका कार्य पशुओं के प्रजनन एवं उन्नत नस्ल के बछड़ों एवं सांडों का उत्पादन करना है। यह एक वैज्ञानिक एवं तकनीकी आधारित विभाग है। इसलिये उद्योग की परिभाषा में नहीं आता। विपक्षी की ओर प्रस्तुत माननीय सर्वोच्च न्यायालय के निर्णय हिमांशु कुमार विद्यार्थी व अन्य बनाम स्टेट ऑफ बिहार में माननीय उच्चतम न्यायालय ने यह कहा है कि "सरकार का प्रत्येक विभाग उद्योग नहीं माना जा सकता जब नियुक्तिओं का विनियमन संविधिक नियमों के द्वारा किया जाता हो तो उद्योग की अवधारणा इस सीमा तक अपवर्जित की जा सकती है। प्रार्थी कर्मकार नियमों के अधीन कार्य पर नहीं रखे गये और आवश्यकता अनुरूप दैनिक वेतन पर रखे गये। ऐसी स्थिति में उनका सेवा से पृथक्करण छंटनी नहीं माना जा सकता।" विपक्षी द्वारा यह तो कहा गया है कि विपक्षी संस्थान का उद्देश्य उन्नत नस्ल के पशुओं का प्रजनन और उत्पादन करना है किंतु यह नहीं कहा है कि इस प्रकार के उत्पादन और प्रजनन प्रक्रिया से विपक्षी संस्थान कोई आय अर्जित न करता हो। यदि विपक्षी द्वारा कोई नियमित कार्य लाभार्जन हेतु किया जाता हो तो ऐसा संस्थान उद्योग की परिभाषा से अपवर्जित नहीं होता। माननीय सर्वोच्च

न्यायालय ने भी यही मार्गदर्शन दिया है कि प्रत्येक सरकारी विभाग को उद्योग नहीं माना जा सकता, किंतु इस मार्गदर्शन में यह संभावना भी अंतर्निहित है कि सरकारी विभाग को उनके कार्य की प्रकृति, व्यवसाय और लाभ अर्जित करने की स्थिति में उद्योग माना भी जा सकता है। इस विवेचन के उपरांत यह बिन्दु विपक्षी के विरुद्ध निर्णीत किया जाता है।

18. वर्कर्स' कैंडिडेट्स' एक्ट, 1947

19. विचारणीय बिन्दु संख्या-1 के अधीन यह निश्कर्ष प्राप्त हुआ है कि प्रार्थी की सेवामुक्ति वस्तुतः छंटनी नहीं है। और वह अधिनियम की धारा 25 F के प्रावधानों का संरक्षण प्राप्त करने का अधिकारी नहीं है। प्रार्थी स्वयं अपने पुलिस अभिरक्षा में रहने के सारवान तथ्य को छुपाकर अधिकरण के समक्ष वाद लेकर उपस्थित हुआ। प्रार्थी के इस कृत्य की अधिकरण भर्त्सना करता है।
20. जहाँ तक प्रार्थी द्वारा यह विवाद 6-7 वर्ष उपरांत प्रस्तुत किये जाने का प्रश्न है, माननीय सर्वोच्च न्यायालय ने निर्णयों की एक श्रृंखला में यह मार्गदर्शन दिया है कि औद्योगिक विवादों पर परिसीमा अधिनियम के प्रावधान प्रवर्तित नहीं होते हैं। लम्बे समय तक विवाद का प्रस्तुत न करना, प्रार्थी के पक्ष में कोई अनुतोष दिये जाते समय विचारित किया जा सकता है जिसमें प्रार्थी को विगत वेतन का भुगतान किया जाना अथवा देय होना समाहित हो सकता है।
21. चूंकि प्रार्थी की सेवामुक्ति विपक्षी द्वारा किया जाना अवैध प्रमाणित नहीं हुआ है। इसलिये प्रार्थी, विपक्षी से कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।
22. संदर्भित विवाद का न्यायनिर्णयन इसी प्रकार किया जाता है।
23. अधिनियम की प्रतिलिपि औद्योगिक विवाद अधिनियम, 1947 की धारा 17 (1) के अनुसरण में प्रकाशनार्थ प्रेषित की जावे।
24. न्यायालय द्वारा अधिनियम आज दिनांक 16.10.2024 को सुनाया गया।

राधामोहन चतुर्वेदी, पीठासीन अधिकारी

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2314.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रबंध निदेशक, दिल्ली मेट्रो रेल कॉर्पोरेशन लिमिटेड, बाराखम्भा रोड, नई दिल्ली; प्रबंध निदेशक, न्यूविजन कमर्शियल एंड एस्कॉर्ट्स सर्विसेज, सिकंदरपुर, गुडगांव, हरियाणा, के प्रबंधन के संबंधित नियोजकों और (आई.डी. संख्या 111/2019 श्री मोहम्मद आफताब आलम, कामगार, आई.डी. संख्या 112/2019 श्री मोहम्मद निसार आलम, कामगार, आई.डी. संख्या 113/2019 श्री भरत देव, कामगार, आई.डी. संख्या 114/2019 श्रीमती पूनम कुमार, कामगार,) के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट (संदर्भ संख्या 111 to 114 of 2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. एल - 42025-07-2024-223-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2314.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 111 to 114 of 2019) of the **Central Government Industrial Tribunal cum Labour Court - II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Managing Director, Delhi Metro Rail Corporation Ltd., Barakhamba Road, New Delhi; The Managing Director, Nuvision Commercial & Escorts Services, Sikanderpur, Gurgaon, Haryana, and, (I.D. NO. 111/2019 Shri Mohd. Aftab Alam, Worker, I.D. No. 112/2019 Shri Mohd. Nisar Alam, Worker, I.D. No. 113/2019 Shri Bharat Dev, Worker, I.D. No. 114/2019 Smt. Poonam Kumar, Worker,)** which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. L-42025-07-2024-223-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE**BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI****I.D. NO. 111/2019****Mohd. Aftab Alam, S/o Mohd. Nayeemuddin,**

Correspondence Address:-F-625, 25Foota Road, Khadda Colony,

Jaitpur Extn. Part-II, Badarpur, New Delhi-110044.

Permanent Address:- Village-Madanpur (Shampur)

P.S. Haveli Khadakpur, District-Munger, Bihar,

I.D. No. 112/2019**Mohd. Nisar Alam, S/o Sh. Mohd. Gulab,**

Correspondence Address:- F-231, Sahin Bagh, Jamia Nagar,

Okhla, New Delhi-110025.

Permanent Address:- R/o Vishunpur Margi, Pirol Urf Rasulpur Shamsuddin, District- Vaishali, Bihar.**I.D. No. 113/2019****Sh. Bharat Dev, S/o Late Sh. Tarani Tanti,****Correspondence Address:** A-152/8, Gagan Vihar, Meethapur,

Jaitpur, New Delhi-110044.

Permanent Address:- Village-Madanpur (Shampur)

P.S. Haveli Khadakpur, District-Munger, Bihar,

I.D. No. 114/2019**Smt. Poonam Kumar, W/o Late Sh. Varun Kumar Shah,****R/o WZ-** 851, Naryana Village, Ring Road,

New Delhi-110028.

Versus

1. The Managing Director,

Delhi Metro Rail Corporation Ltd.

Metro Bhawan, Fire Bridge Lane, Barakhamba Road,

New Delhi-110001.

2. The Managing Director,

Nuvision Commercial & Escorts Services,

S.C.O. No. 16, 17, 18, Shiv Narayan Complex, Sikanderpur,

Gurgaon, Haryana.

*Appearance:**For Claimants: None**For Managements: Sh. Nitesh Sharma, Ld. AR with Sh. Akhilesh (LWI) for M-1 i.e. DMRC.**None for M-2.***AWARD**

By this composite order, I shall dispose of these four applications of U/S 2A of the Industrial Disputes Act (here in after referred as an Act) filed by the different claimants against the same respondents, because of having the common respondents and same cause of action, these cases are taken together for their illegal termination. All the four workmen claim to be employed by the management-2 as TOM (Ticket Operation Machine) Operators for management-1 at the last drawn salary of Rs. 10,000/- since 2013 respectively. They have been doing their duty with diligently and honestly and did not give any chance to the management for any complaint. Management had deprived them of various legal benefits i.e. PF, ESI, Leave Wages, Bonus etc. They have several times approached the management orally and requested for giving the said benefits, but the management did not pay any heed. Works performed by the workmen are perennial in nature is not an intermittent or of causal nature. It is further the case of the

workman that management-1 first terminated the contract of management-2 and again grants him fresh contract w.e.f. 17.11.2017. Management-2 had issued the notice of termination of these workmen on 06.10.2017 as such they have made prayer that the order of termination by management-2 be declared as illegal and they be reinstated with full back wages.

Respondent-1 had filed the WS and denied the relationship of employer and employee between the management and the workmen. They stated that claimants were employee of independent contractor **M/s Nuvision Commercial & Escort Services**. ESI, EPF facilities have been given by them. Hence he submits that no industrial dispute exists between management-1 and management-2. Management-2 never appears in the present cases.

In the absence of the claimants, vide order dated 01.03.2023 following issues has been framed in all the claim petitions. Issues are indential in all the cases i.e.-

1. Whether the proceedings are maintainable?
2. Whether they exists employer and employee relationship of between the M1 and the claimants?
3. Whether the services of the claimants were illegally terminated and from which managements?
4. To what relief to workmen are entitled to, from whom, and from which date?

Now, the matters are listed for workmen evidence. They are required to file their affidavits. Despite, providing a number of opportunities, workmen have not been appearing since long to substantiate their claims.

In these circumstances, when the claimants are not interested in pursuing the claims. Their claim stands dismissed. Awards are passed accordingly. Copies of these awards are filed in each of the file. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. Files are consigned to record room.

ATUL KUMAR GARG, Presiding Officer

Date 12th September, 2024

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2315.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नई दिल्ली नगर निगम (एन.डी.एम.सी.), एन.डी.एम.सी. भवन, नई दिल्ली; आर.के. जैन एंड संस हॉस्पिटैलिटी सर्विसेज प्राइवेट लिमिटेड, नई दिल्ली, के प्रबंधन के संबद्ध नियोजकों और श्री भरत, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट (संदर्भ संख्या 50 of 2020) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. एल – 42025-07-2024-224-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2315.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 50 of 2020) of the **Central Government Industrial Tribunal cum Labour Court – II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **New Delhi Municipal Corporation (N.D.M.C.), NDMC Bhawan, New Delhi ; R.K. Jain & Sons Hospitality Services Pvt. Ltd., New Delhi ; and, Shri Bharat, Worker,** which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. L-42025-07-2024-224-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

I.D. NO. 50/2020

Sh. Bharat, Sh. Kishan Lal,

R/o N-671, Mangolpuri, New Delhi-110083.

Versus

1. New Delhi Municipal Corporation (N.D.M.C.),

NDMC Bhawan, Jantar Mantar, Sansad Marg,
New Delhi-110001.

2. R.K. Jain & Sons Hospitality Services Pvt. Ltd.,

96, Bhagat Singh Market, Near Gole Market,
New Delhi-110001.

AWARD

This is an application U/S **2A of the Industrial Disputes Act (here in after referred as an Act)** filed by the claimant for his illegal termination. Claim of the claimant is that he was working with the management since last one year at the post of Safai Karamchari at the last drawn salary of Rs. 13,500/- p.m. He has been doing his duty with diligently and honestly and did not give any chance to the management for any complaint. Management-2 appointed the workman to work under management-1. Management have not released the full wages in the account of workman from July, 2018 to 2019, when the workman demanded the same from the management on 01.02.2019 then the management illegally sent the letter of absent on 08.02.2019 through postal service and the workman had received the same on 28.02.2019. He replied the said letter to the management but the management neither considered the reply nor allowed to join in service under the management. Management had held up the balance salary from July 2018 to January 2019 and not released the same with intentionally and deliberately and terminated the services of the workman without given any prior notice and without any cause and reason. Hence, he filed the present claim with the prayer that he be reinstated with full back wages. From his illegal termination by the management, he is unemployed.

Respondent-1 had filed his written statement. Management-2 was proceeded ex-parte vide order dated 17.05.2022. Management-1 denies the averment made in his claim statement. He submits that claim is not maintainable and liable to be dismissed.

After completions of the pleadings, following issues have been framed vide order dated 29.11.2022 i.e.:

1. Whether the proceeding is maintainable.
2. Whether there exist employer and employee relationship between the claimant and management-1.
3. Whether the claimant service was illegally terminated by management-2.
4. To what relief the claimant is entitled to.

Now, the matter is listed for workman evidence. He is required to file his affidavit. Despite, providing a number of opportunities, workman has not been appearing since long to substantiate his claim.

In these circumstances, when the claimant is not interested in pursuing his claim. His claim stands dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

ATUL KUMAR GARG, Presiding Officer

Date 25th September, 2024

नई दिल्ली, 31 दिसम्बर, 2024

का.आ. 2316.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आयुक्त, उत्तरी दिल्ली नगर निगम, सिविक सेंटर, जवाहर लाल नेहरू मार्ग, नई दिल्ली; सुपीरियर सिक्वोरिटीज, डिफेंस कॉलोनी, नई दिल्ली, के प्रबंधन के संबंध में नियोजकों और आईडी नम्बर 245/2019, श्री भोला नाथ यादव, कामगार, श्री समर बहादुर यादव, कामगार, श्री दिनेश कुमार, कामगार, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-2 नई दिल्ली पंचाट (संदर्भ संख्या 245 of 2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 31.12.2024 को प्राप्त हुआ था।

[सं. एल – 42025-07-2024-225-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 31st December, 2024

S.O. 2316.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 245 of 2019) of the **Central Government Industrial Tribunal cum Labour Court – II New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Commissioner, North Delhi Municipal Corporation, Civic Centre, Jawahar Lal Nehru Marg,**

New Delhi ; Superior Securities, Defence Colony, New Delhi ; and, ID.No. 245/2019, Shri Bhola Nath Yadav, Worker, Shri Samar Bhadur Yadav, Worker, Shri Dinesh Kumar, Worker, which was received along with soft copy of the award by the Central Government on 31.12.2024.

[No. L-42025-07-2024-225-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

ID.No. 245/2019

1. **Sh. Bhola Nath Yadav, S/o Sh. Ram Pal Yadav,**
R/o B-272, Near Usha Mata Mandir, Daya Basti,
Sarai Rohilla, Onkar Nagar, Delhi-110035.
2. **Sh. Samar Bhadur Yadav, S/o Sh. Ram Dhani Yadav,**
R/o B-272, T-Huts, RPF Line, Daya Basti,
Baljit Nagar, Onkar Nagar, North West, Delhi-110035.
3. **Dinesh Kumar Kushwaha, S/o Sh. Puran Chand,**
R/o House No. K-32, J.J. Colony, Wazirpur, Ashok Vihar,
Delhi-110052.

VERSUS

1. The Commissioner,
North Delhi Municipal Corporation,
Civic Centre, Jawahar Lal Nehru Marg, New Delhi-110002.
2. **Superior Securities,**
A-308, 02nd Floor, Defence Colony, New Delhi-110024.

AWARD

This is an application of U/S 2A of the Industrial Disputes Act (here in after referred as an Act) filed by the claimants. Claimants had stated in the claim statement that they had been working with the respondent as a Security Guard since 01.04.02024 at the last drawn wages Rs. 9,180/- each per month They had been doing their work with diligently with the management. During service tenure, respondents did not give them appointment letter, ESI and P.F. benefit, earned leave, casual leave and annual bonus. They also did not give to the workmen any overtime wages for working on holiday. Respondents took the work from workman Samar Bahadur in night shift in February, 2016 at Samuday Bhawan-11, Wazirpur Village, Delhi-110052 but they did not pay wages to the workman for that month. The Security Supervisor Rajender fed up with the illegal deduction of Rs. 3,180/- per month where the workmen registered oral complaint with higher authorities who also threatened them to terminate from their job. Workmen demanded legal benefit orally due to which the respondents with held their wages for the month of January, 2017. The workmen then through Union sent a complaint dated 06.03.2019 to the local police but no action was taken. A complaint for payment of outstanding wages were send through the Union to the Assistant Labour Commissioner (Central), but no necessary action have been taken. For that action, workmen had been terminated on 01.04.2017 with the reply that the contract with MCD has expired/completed. After the termination, when the workmen suddenly asked to the respondent-1 to pay their outstanding wages and issue further deployment orders. Neither the workmen have been given their outstanding wages nor issued any deployment orders. They had sent the demand letter dated 07.08.2017 to the respondents but, no reply was given by the respondents. They have sent to the conciliation officer, but no result was yielded. Hence, they have filed the present claim. They are unemployed since the date of termination from their services.

Management-1 & 2 have not been appearing since long. They have been proceeded ex-parte vide order dated 12.01.2023.

Now, the matter is listed for ex-parte evidence of the workmen. Claimants have not been appearing since long. They have not brought any evidence i.e. documents and oral to substantiate their claim, inspite of providing a number of opportunities.

In these circumstances, when the claimants have not been appearing since long to substantiate their claim, it appears that they are not interested to pursue the case. This tribunal has no option except to pass the no disputant award. No dispute award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

ATUL KUMAR GARG, Presiding Officer.

Date: 14/08/2024

नई दिल्ली, 26 नवम्बर, 2024

का.आ. 2317.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रबंधक, शापूरजी पल्लून जी एंड कंपनी प्रा. लिमिटेड, बाराखम्भा रोड, नई दिल्ली, के प्रबंधन के संबंध नियोजकों और श्री सुनील मंडल एवं 3 अन्य, कामगार, द्वारा -दिल्ली कार्यालय एवं प्रतिष्ठान कर्मचारी संघ, राउज एवेन्यू, नई दिल्ली, के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय-1 नई दिल्ली पंचाट(संदर्भ संख्या 48/2023) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 26.11.2024 को प्राप्त हुआ था।

[सं. एल – 42011-312-2022-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 26th November, 2024

S.O. 2317.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 48/2023) of the **Central Government Industrial Tribunal cum Labour Court-I New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Manager, Shapoorji Palloon Ji & Co. Pvt. Ltd., Barakhamba Road, New Delhi, and Shri Sunil Mandal & 3 others, Worker, through-Delhi Offices & Establishment Employees Union, Rouse Avenue, New Delhi**, which was received along with soft copy of the award by the Central Government on 26.11.2024.

[No. L-42011-312-2022-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE**THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI - 1,
NEW DELHI.****ID No. 48/2023**

Sh. Sunil Mandal & 3 others,
Rept. By Delhi Offices & Establishment Employees Union,
B.T.R. Bhawan, 13-A, Rouse Avenue, New Delhi-110002.

Workman...

Versus

The Manager,
Shapoorji Palloon Ji & Co. Pvt. Ltd.,
7th Floor, Kunchanjunga Building,
Barakhamba Road, New Delhi-110001.

Management...

AWARD

In the present case, a reference was received from the appropriate Government vide letter No. L-42011/312/2022 (IR(DU)) dated 13.01.2023 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

SCHEDULE

“Whether demands raised by Delhi Offices and Establishment Employees Union, New Delhi dated 10.08.2021 i.r.o. Shri Sunil Mandal and 3 others (enclosed) against the management of Shapoorji Palloon Ji and Co. Pvt. Ltd., New Delhi for reinstatement and payment for two months salary of May and June, 2021, are proper, legal and justified? If yes, to what reliefs as sought vide letter under reference the disputant entitled and what directions, if any, are necessary in the manner?”

2. In the reference order, the appropriate Government commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant union opted not to file the claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the workman as well as the managements. Neither the postal article sent to the claimant, referred above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred above. Therefore, every presumption lies in favor of the fact that

the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor he led any evidence so as to prove his cause against the management, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Justice VIKAS KUNVAR SRIVASTAVA, Presiding Officer

Date: 07.11.2024

नई दिल्ली, 6 जनवरी, 2025

का.आ. 2318.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल.के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक न्यायाधिकरण-सह-श्रम न्यायालय-सह- अतिरिक्त। जिला. एवं सत्र न्यायालय, गोदावरीखानी के पंचाट (पहचान। d[; k. 11/2023) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06@01@2025 को प्राप्त हुआ था।

[सं. एल – 22013-01-2025-आईआर (सी एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 6th January, 2025

S.O. 2318.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID. No. 11 / 2023**) of the **INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-CUM- ADDL. DIST. & SESSIONS COURT, GODAVARIKHANI** as shown in the Annexure, in the industrial dispute between the Management of **S.C.C.L.** and their workmen, received by the Central Government on **06/01/2025**.

[No. L-22013-01-2025-IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-CUM- ADDL. DIST. & SESSIONS COURT, GODAVARIKHANI.

PRESENT:- SRI Dr.T.SRINIVASA RAO,

CHAIRMAN-CUM-PRESIDING OFFICER.

TUESDAY, ON THIS THE 10th DAY OF DECEMBER, 2024.

ID.No. 11 of 2023

Between:-

G.Anil Kumar, S/o.Raju, Age:33 years, E.C.No.2920874, Ex-General Mazdoor, IK. 1A-Incline, C/o. S.Sanjay Kumar, Advocate, H.No.19-1-103/4, Markendeya Colony, Godavarikhani-505209, District: Peddapalli, (Telangana State).

...Petitioner/Workman

AND

1. The Superintendent of Mines, Singareni Collieries Company Limited, IK 1A-Incline, SRP Area, Srirampur, District: Macheral (T.S).
2. The General Manager, Singareni Collieries Company Limited, Srirampur Area, Srirampur, District: Mancherla (T.S).
3. The Chairman and Managing Director, Singareni Collieries Company Limited, P.O:Kothagudem, District: Badradri Kothagudem (T.S).

...Respondents/Management

This case coming before me for final hearing in the presence of Sri S.Sanjay Kumar, Advocate for the Petitioner and of Sri T. Ravinder Singh, Advocate for the Respondents; and having been heard and having stood over for consideration till this day, the Tribunal delivered the following:-

AWARD

This is a petition filed U/Sec.2-A (2) of I.D. Act, 1947 praying to set aside the dismissal order Ref. dt.01.12.2021 passed by Respondent No.2 and to direct the respondents'-company to reinstate the petitioner into service with continuity of service, all other consequential attendant benefits and full back wages.

2. The brief averments of the petition are as follows:-

2(a). The petitioner was provided dependant employment as Badli Filler by the respondents company during the year, 2009 and he was promoted as General Mazdoor during the year, 2016. Evere since his appointment the petitioner discharged his duties to the utmost satisfaction of his superiors without any adverse remarks and put-in more than 100-musters per year. He sustained fractures to his right Iliac Crest in the Mine Accident while on duty during July, 2010 and he sustained injuries in the mine while on duty during March, 2012. He was imparted treatment in the SCCL Area Hospitals, Main Hospital-Kothagudem and referral Hospitals from the year 2012 onwards. Due to strenuous work in the underground mine and frequent treatment at SCCL Hospitals, the petitioner's health was badly deteriorated from the year 2016. The musters put-in by the petitioner are submitted here under:-

1.	Musters of 2013	(168) musters
2.	Musters of 2014	(205) musters
3.	Musters of 2015	(196) musters
4.	Musters of 2016	(126) musters
5.	Musters of 2017	(95) musters

2(b). The petitioner suffered from serious ill-health and inspite of taking treatment in the SCCL hospitals, his health condition was not improved and he suffered from "*Hiatus Hernia, neck pain, tingling of right lower limb, G.I bleed, sinus bradycardia with pain abdomen, Fatigue*", from 2017 to 2021. He was imparted prolonged treatment in the respondent's company Hospitals and referral Hospitals at Hyderabad and Vishakapatnam. The respondents have imparted treatment to the petitioner in company Area Hospitals and referred him to main hospital, Kothagudem for examination by the General Surgeon and General Physician vide letter dt. 04.05.2019. He was examined and found that he is a case of *persistent sinus Brady Cardia large hiatus hernia*. He was referred to PACE HOSPITAL, Hyderabad for *post prandial epigastrities pain+retrosternal pain by the Gastroenterologist and Herpetologist*. The Gastroenterologist advised surgery and cardiologist advised Electro-Physiological study for persistent Brady Cardia and there was drop in blood pressure.

2(c). For the absenteeism during the year 2019, stoppage of (1) increment with cumulative effect which is due on 01.03.2022 was awarded by Ref. dt.14.09.2021; and within few months, R-2 dismissed him from service by Ref. dt.01.11.2021/01.12.2021, under the pretext of absenteeism during the year, 2020. It shows that respondents have bent upon to dismiss the petitioner from service, unjustly. He underwent prolonged treatment in the SCCL Hospitals of RKP, SRP, RGM, Main Hospital Kothagudem, SCCL referral Hospitals and other Hospitals. But, without considering the true facts, chronic ill-health suffered by the petitioner and medical treatment imparted to him, the Respondent No.2 issued charge sheet dt.20.01.2021 alleging absenteeism from duty during 2020:-

"25.31: Absence from duty without sanctioned leave or sufficient cause or overstaying beyond sanctioned leave".

There is no deliberate absenteeism on the part of petitioner, there is reasonable and sufficient cause for his not attending to duties regularly during the charge sheet periods. The respondent's company admittedly imparted treatment to the petitioner in the SCCL Area Hospital and referred him to several Super Specialty Hospitals at Hyderabad, for better treatment and management, due to "*Hiatus Hernia, neck pain, tingling of right lower limb, G.I bleed, Sinus Brady Cardia with pain abdomen, Fatigue*". He was imparted prolonged treatment since 2017 very frequently by the respondent's company, but, without considering the facts, the Respondent No.2 dismissed the petitioner from service by order dt.01-12-2021.

2(d). The petitioner suffered from severe ill-health, "*Hiatus Hernia, neck pain, tingling of right lower limb, G.I bleed, Sinus Brady Cardia with pain abdomen, Fatigue*". He was imparted treatment in the SCCL Area Hospitals, SRP and Ramagundam Area. But, since his health condition was not improved, the respondents sent to the petitioner to "Referral Hospitals", Hyderabad during the years 2017 to 2021, through reference letters dt. 10.07.2018, 17.04.2019, 11.05.2019, 21.05.2019, 22.05.2019 and 0.09.2019. He was imparted frequent treatment by the SCCL Hospitals and he was compelled to take treatment in the medlife hospital, vishakapatnam.

2(e). Formal domestic enquiry was conducted while the petitioner was undergoing treatment and the enquiry officer did not properly appreciate the documentary and oral evidence in favour of the petitioner. The findings of the Enquiry Officer are very cryptic and he gave his vague findings, which are quite biased and perverse. The respondent No.2 required the petitioner to make representation on the findings report of the Enquiry Officer by letter dt.30.04.2021 by RPAD. As he was undergoing prolonged treatment in the hospitals at Hyderabad and Vishakhapatnam, he could not receive the same and not submitted any representation. The Respondent No.2 dismissed him from service straight away, without issuing any prior Show Cause Notice proposing the capital

punishment of dismissal from service. He preferred appeal dt.03.01.2022 and moved from pillar to post before respondents, but there is no response from the company and he was not taken to duty. His health condition badly deteriorated and he suffered from serious ill health, during the charge sheeted period and there is sufficient and reasonable cause for the petitioner for not attending to duties during charge sheet period and it cannot be termed as misconduct.

2(f). Further, imposing the capital punishment of dismissal from service on the petitioner without any prior show cause notice proposing the said capital punishment is against the settled Law and contrary to the principles of natural justice. The extremely harsh punishment of dismissal is highly excessive and shockingly disproportionate, which amounts to his economic death. Ever since his dismissal from service, the petitioner is out of employment and could not secure any other alternative job inspite of his best efforts. He hails from a very poor family and has no other source of livelihood. Therefore, he prays to set aside the dismissal order passed by the Respondent No.2 and to direct the Respondents'-Company to reinstate him into service with continuity of service, all consequential attendant benefits and full back wages.

3. On the other side the Respondents/Management filed counter by admitting the employment of the Petitioner/Workman with the Respondents'-Company, inter-alia, contended that since the coal mining industry is a central subject the appropriate Government for the Respondents/Management is Central Government, which established CGIT at Hyderabad for adjudication of Industrial Disputes and the Petitioner ought to have approached the said Tribunal for redressal of grievance. But, the petitioner conveniently avoided filing his petition before the Tribunal established by the Central Government and hence it is not maintainable before this Tribunal and the same may be dismissed on this ground alone and the maintainability dispute may be decided by this Hon'ble Tribunal.

3(a). The petitioner was initially appointed as Badli Filler on 15.07.2009 under compassionate/Dependant employment scheme as his father Sri G.Raju expired while in service. The petitioner worked as General Mazdoor under R-1 and he being an underground employee, is expected to put-in minimum 190 Musters in a calendar year. But he was not regular to his duties and in no year he had put in the required 190 musters from his appointment to till his dismissal from service. The petitioner is a chronic absentee and failed to improve his attendance even after issuing 5 charge sheets and finally the respondents' company was constrained to dismiss him from service for his misconduct in the year duly following the principles of natural justice.

3(b). During the period from January 2020 to December 2020, the petitioner has put in "00" musters. As the above is misconduct, he was issued charge sheet dt.20.01.2021 and relevant clause of the Standing Order reads as under:

"25.31: Absence from duty without sanctioned leave or sufficient cause or overstaying beyond sanctioned leave".

The charge sheet sent to his address, but as it was returned undelivered the same was published in Mana Telangana Telugu News Paper dt.04.04.2021 to attend the enquiry on 27.04.2021. He did not attend the enquiry, as such, exparte enquiry was conducted, charge was proved against the petitioner and a copy of enquiry report was sent to his residential address. As the same returned undelivered the same was published in Namaste Telangana News Paper dt.05.06.2021 to submit his written representation within seven days from the date of publication. As the petitioner has not submitted any explanation against the findings of Enquiry Officer, the respondents' company was constrained to dismiss the petitioner from service with immediate effect from 01.12.2021 and no appeal was received was received by the respondent and the petitioner is put to strict proof of his appeal dt.31.01.2022.

3(c). The Respondent Company is providing Medical facilities as In and Out patients to its employees and their dependants through its hospitals and if required the patients will be referred to specialized/ Corporate Hospitals for further treatment/diagnosis. The company has agreement with chain of hospitals to provide medical treatment to its employees. The petitioner was also extended medical facilities by the Respondent Company for the injuries sustained by him in the year, 2010 and further the petitioner being a case of Haemotemesis + Haematochezia was referred to CMO, Kothagudem vide referred letter dt.07.09.2018 by Dy.CMO, AH, RKP for treatment and for fitness for duty. Further, he was referred to Kamineni Hospital vide letter dt.17.04.2019 and CMO, KGM on 04.05.2019 and there after the petitioner not reported his sick report in Company's Hospitals during the entire absenteeism period which is against the principles of the company.

3(d). The Respondent Company employs more than 43,600 persons and the production results will depend upon the overall attendance and performance of every individual. If anyone remains absent without prior sanction of leave or without any justified cause, the work to be performed gets effected. Such unauthorized absence creates sudden void, which at times is very difficult to fill-up with substitute, and there will be no proper planning and already planned schedules get suddenly disturbed without prior notice. For that reason every time the company inform its workers to intimate prior to the unit in-charge so that they may arrange substitute and failing to inform will result in to production and burden on the other employees.

3(e). The Petitioner was given number of opportunities to correct himself and to be regular to his duties by imposing minor penalties such as issued suspension of 10 days by order dt.19.11.2019, stoppage of one increment by order dt.14.09.2021, warning letters dt.05.06.2013 and 20.02.2016. But, the Petitioner has failed to improve his attendance and resorted to unauthorizedly absent for duty during the calendar years 2020. The company gave many opportunities to the petitioner with hope that he may change and attend his duties. Even after giving opportunities to improve his

attendance, the petitioner continued his absenteeism continuously and there is no improvement in the attendance. The petitioner's misconduct compelled the Respondent/Management to impose the penalty of dismissal which cannot be termed as unjust. The Respondent/ Management cannot be held responsible for the alleged debts and unemployment and the other allegations of the petition are denied and hence the Respondents prayed to dismiss the petition, without granting any relief to the petitioner.

4. In support of the claim of the Petitioner/Workman, he got examined himself as WW-1 and got marked Ex.W-1 to Ex.W-63 on his behalf. On the other side, the Respondents' Company got examined Kukkala Paul Srujan, Sr.P.O as RW-1 and got marked Ex.M-1 to Ex.M-23 on its behalf.

5. Heard the learned counsel for Petitioner/Workman as well as learned Standing Counsel for the Respondents' Company, besides written arguments.

6. Here, on the point of jurisdiction, it is well settled law that in a Judgment reported in 1997 (III) LLJ (Supp.) 11, Between: U. Chinnappa Vs. Cotton Corporation of India, their Lordships of the Division Bench of the Hon'ble High Court have held that the Tribunal constituted by Statement Government has jurisdiction over the Singareni Collieries Company Ltd., to entertain the Industrial Dispute raised by the workmen of SCCL, though the appropriate Govt. is Central Govt., As such, the petitioner/workman herein need not raise the Industrial Dispute compulsorily before the Central Government Industrial Tribunal, Hyderabad alone, as contended by the Respondents in the counter and the petitioner is entitled to file I.D before this Tribunal as well. Hence, this Tribunal has got every jurisdiction to adjudicate this case as per the above settled law. Further in view of the above settled law, the learned counsel for the Respondents' Company did not raise any dispute across the Bench with regard to jurisdiction of this Tribunal to entertain this matter.

7. Now the points for consideration are:-

1. *Whether the domestic enquiry conducted by the respondents is held valid or not?*
2. *Whether the charge leveled against the petitioner is proved basing on evidence or not?*
3. *Whether the dismissal order dt.01.12.2021 is liable to be set aside, if so, the petitioner is entitled to reinstatement with continuity of service with all attendant benefits and full back wages?*

If not to what relief is the worker entitled to?"

8. From the pleadings of the Petitioner/Workman and Respondents' Company, these are the admitted facts that the petitioner/workman worked as Badli-Filler and General Mazdoor (Underground) in the Respondents' Company and he was dismissed from service vide Ref dt.01.11.2021/01.12.2021. Now coming to the documentary evidence of both sides, on behalf of the Respondents' Company, Ex.M-1 to Ex.M-23 were marked, wherein, Ex.M-1 is attested copy of warning letter issued to the petitioner for a charge sheet Lr.No. IK.IA/2012/R.08/1935 vide Lr.No.SRP/PER/13/008/1284. Ex.M-2 is attested copy of Charge Sheet issued to the petitioner vide Lr.No. IK. IA/2013/R.08/767. Ex.M-3 is attested copy of show cause notice to the petitioner vide Lr.No. SRP/PER/13.008/3328 and Ex.M-4 is attested copy of charge sheet issued to petitioner vide Lr.No.IK. IA/ 2015/R10/2874. Ex.M-5 is attested copy of charge sheet issued to petitioner vide Lr.No. IK.IA/2018/R.08/1032 and Ex.M-6 is attested copy of enquiry notice to the petitioner vide Lr.No.IK.IA/2018/ R10/1114. Ex.M-7 is attested copy of enquiry proceedings and Ex.M-8 is attested copy of application by the petitioner. Ex.M-9 is attested copy of enquiry report and enquiry proceedings. Ex.M-10 is attested copy of charge sheet issued to petitioner vide Lr.No.SRP/ IK.1A/2019/R.08/364 and Ex.M-11 is attested copy of disciplinary action against petitioner vide SRP/IK.1A/2019/R.07/5876. Ex.M-12 is attested copy of charge sheet issued to petitioner vide Lr.No. SRP/IK.1A/2020/R.08/897 and Ex.M-13 is attested copy of publication of show cause notice in Telugu daily vide SRP/IK.IA/ 2020/R.08/897. Ex.M-14 is attested copy of enquiry proceedings and Ex.M-15 is attested copy of show cause notice to the petitioner vide SRP/IK. 1A/R.08/2020/5349.Ex.M-16 is attested copy of charge sheet issued to petitioner vide Lr.No.SRP/IK.1A/2021/ R.08/344. Ex.M-17 is attested copy of publication of show cause notice in Telugu daily vide SRP/IK.IA/2020/R.08/897. Ex.M-18 is attested copy of enquiry proceedings and Ex.M-19 is Attested copy of publication of show cause notice in telugu daily vide SRP/IK.1A/ 2020/R.08/897. Ex.M-20 is attested copy of disciplinary action against petitioner by stoppage of one increment vide SRP/PER/ 13.008/6106. Ex.M-21 is attested copy of dismissal order of the petitioner vide Lr.No.SRP/PER/13008/7615, Ex.M-22 is attested copy of name removal letter of the petitioner vide Lr.No.SRP/IK.IA/ 2021/PO1/5685 and Ex.M-23 is Authorization letter.

8(a). On the other side, the petitioner got marked Ex.W-1 to W-63 on his behalf, wherein, Ex.W-1 is the SCCL letter showing mine accident met by the petitioner causing him serious injury. Ex.W-2 is the NIMS Hospital, Hyderabad Medical record of petitioner and Ex.W-3 is the NIMS Hospital, Hyderabad OP Card of Petitioner. Ex.W-4 is the NIMS Hospital, Hyderabad Medical report of Petitioner and Ex.W-5 is the SCCL Area Hospital medical prescription of petitioner for his right ILIAC CREST injury in mine accident. Ex.W-6 is the SCCL Area Hospital medical prescription of petitioner for his right ILIAC CREST injury in mine accident. Ex.W-7 is the SCCL Area Hospital medical prescription and Ex.W-8 is the SCCL hospital treatment for injury to index finger while working in mine. Ex.W-9 is the SCCL hospital treatment for injury to index finger while working in mine. Ex.W-10 to Ex.W-12 are the SCCL Area Hospital medical prescriptions of the petitioner and Ex.W-13 is the SCCL Area Hospital reference letter to main hospital, Kothagudem, Senior Ortho Surgeon. Ex.W-14 is the SCCL Main Hospital Discharge Card imparting

treatment and Ex.W-15 is the SCCL Physiotherapy treatment card. Ex.W-16 is the SCCL Area medical prescription for right ILIAC CREST pain and Ex.W-17 is the SCCL Area Hospital Fit Certificate imparting treatment and petitioner allowed to duty. Ex.W-18 is the SCCL reference letter to Deccan Hospital, Hyderabad for MRI LS Spine and Ex.W-19 is the SCCL main hospital treatment imparted and petitioner advised fit only after one week by area hospital. Ex.W-20 is the SCCL area hospital treatment medical prescription, Ex.W-21 is the SCCL hospital medical treatment imparted for two days and Ex.W-22 is the SCCL area hospital fit certificate imparting treatment and petitioner allowed to duty. Ex.W-23 is the SCCL hospital discharge card, Ex.W-25 is the SCCL area hospital fit certificate imparting treatment and Ex.W-26 is the SCCL area hospital, RKP (SRP) medical prescription of the petitioner. Ex.W-27 is the SCCL area hospital, RKP (SRP) medical prescription of the petitioner and Ex.W-28 is the SCCL reference letter to the Deccan hospital, Hyderabad for imparting treatment to the petitioner. Ex.W-29 is the SCCL area hospital reference letter to SCCL area hospital, GDK for G.I. bleeding of the petitioner, Ex.W-30 is the SCCL reference letter to the Deccan hospital, Hyderabad for imparting treatment to the petitioner and Ex.W-31 is the Discharge Summary by Deccan hospital, Hyderabad showing ill-health suffered by petitioner. Ex.W-32 is the SCCL reference letter to main hospital, Kothagudem and Ex.W-33 is the SCCL area hospital, RKP (SRP) medical prescription of the petitioner. Ex.W-34 is the SCCL reference letter to Kamineni Hospitals, L.B. Nagar, Hyderabad. Ex.W-35 is the Medical history of petitioner, endoscopy report, Colour Doppler, X-ray report, US report and CT report of petitioner by Kamineni hospital, Hyderabad 5 papers and Ex.W-36 is the CT report of petitioner by Kamineni hospital, Hyderabad. Ex.W-37 is the Clinical reports of petitioner by Kamineni hospital, Hyderabad 16 papers and Ex.W-38 is the Discharge Summary of Kamineni hospital, Hyderabad. Ex.W-39 is the Certificate of Kamineni hospital, Hyderabad and Ex.W-40 is the Medical prescription of petitioner by Kamineni hospital, Hyderabad. Ex.W-41 is the SCCL reference letter to the main hospital, Kothagudem regarding treatment and fitness for duty and Ex.W-42 is the SCCL reference letter to PACE hospital, Hyderabad. Ex.W-43 is the Discharge Summary of petitioner by PACE hospital, Hyderabad and Ex.W-44 is the SCCL reference letter to Vinrinchi hospital, Hyderabad for further evaluation. Ex.W-45 is the SCCL reference letter to Vinrinchi Hospital, Hyderabad for further evaluation and Ex.W-46 is the SCCL reference letter to Sunshine hospital, Hyderabad. Ex.W-47 is the MRI Cervical Spine of Sunshine hospital, Hyderabad, Ex.W-48 is the Medical prescription by sunshine hospital, Hyderabad and Ex.W-49 is the MRI Brain of the petitioner by sun shine hospital, Hyderabad. Ex.W-50 is the SCCL Area Hospital, Medical prescription, Ex.W-51 is the Medlife Hospital, Vishakapatnam Medical Prescriptions of the Petitioner and Ex.W-52 is the Medlife Hospital, Vishakapatnam Medical Prescriptions of Petitioner, Ex.W-53 is the Medlife Hospital, Vishakapatnam Medical Prescriptions of Petitioner, Ex.W-54 is the Medlife Hospital, Vishakapatnam Medical Prescriptions of Petitioner. Ex.W-55 is Medlife Hospital, Vishakapatnam Medical prescriptions of Petitioner. Ex.W-56 is the Medlife Hospital, Vishakapatnam Medical Prescriptions of Petitioner, Ex.W-57 is the Medlife Hospital, Vishakapatnam Medical Prescriptions of Petitioner and Ex.W-58 and Ex.W-59 is the Medlife Hospital, Vishakapatnam Medical Prescriptions of Petitioner. Ex.W-60 is the Appeal preferred by the Petitioner and Ex.W-61 is the O/c of Demand Letter of the petitioner by RPAD and Ack of the Respondent No.2. Ex.W-62 is the Medical OP (Male) Registration of petitioner with O.P.No. 57076493724 at SCCL Dispensary and Ex.W-63 is the Reference form for treatment of petitioner forwarded from the time. The above documents of both sides are not in much dispute by either side.

9. Here, the learned counsel for the respondents'-company has strenuously argued that the petitioner was appointed as Badli Filler on 15.07.2009 under compassionate/Dependant employment and he being an underground employee is expected to put minimum 190 Musters in a calendar year, but, he was not regular to his duties. The Respondent Company employs more than 43,600 persons and the production results will depend upon the overall attendance and performance of every individual. If anyone remains absent without prior sanction of leave or without any justified cause, the work to be performed gets effected. Such unauthorized absence creates sudden void, which at times is very difficult to fill-up with substitute, and there will be no proper planning and already planned schedules get suddenly disturbed without prior notice. For that reason every time the company inform its workers to intimate prior to the unit in-charge so that they may arrange substitute and failing to inform will result in to production and burden on the other employees.

9(a). The learned standing counsel for the respondents'-company further argued that during the period from January to December 2020, the petitioner has put in "00" musters. As the above act amounted to misconduct under Company Standing Orders No. 25.25 & 25.31, he was issued charge sheet dt.20-01-2021 for absenteeism for the year 2020 and sent to his address. As it was returned undelivered, the same was published in Mana Telangana Telugu News Paper dt.04.04.2021 to attend the enquiry on 27.04.2021. As the petitioner did not attend the enquiry, exparte enquiry was conducted and the charge was amply proved against the petitioner during enquiry. Further, the petitioner has not submitted any explanation against the findings of Enquiry Officer and hence, the respondents' company was constrained to dismiss him from service with immediate effect from 01.12.2021.

9(b). The learned counsel for the Respondents' Company further argued that the company is providing Medical facilities as to its employees and their dependants through its hospitals, and if required the patients will be referred to specialized Corporate Hospitals for further treatment and diagnosis. The petitioner was also extended medical facilities by the Respondent Company for the injuries sustained by him in the year, 2010 and further the petitioner being a case of *Haemotemesis + Haematochezia* was referred to CMO, Kothagudem vide referred letter dt.07.09.2018

by Dy.CMO, AH, RKP for treatment and for fitness for duty. Further, he was referred to Kamineni Hospital vide letter dt.17.04.2019 and CMO, KGM on 04.05.2019 and thereafter petitioner not reported his sick report in Company's Hospitals. He was given number of opportunities to correct himself and to be regular to his duties by imposing minor penalties, with hope that he may reform himself and attend his duties. Even after giving opportunities to improve his attendance, the petitioner continued his absenteeism and there is no improvement in the attendance. Hence, the respondents' company was constrained to impose capital punishment and dismissed from service vide office order dt.01.12.2021, which is justified. Hence, he prayed to dismiss the petition, without granting any relief to the petitioner/workman.

10. Per contra, the learned counsel for the petitioner strenuously argued that the Petitioner/Workman was appointed was appointed during the year 2009 as Badli-Filler under dependant employment quota. He put-in more than (100) required musters per year and was promoted as General Mazdoor; but, due to fractures sustained by him in the mine accident, frequent treatment was imparted in the SCCL Hospitals. His health was not improved and he suffered from "*Hiatus Hernia, neck pain, tingling of right lower limb, G.I bleed, Sinus Bradycardia with pain abdomen, Fatigue*", from 2017 to 2021, for which he was imparted prolonged medical treatment in the Company's Hospitals and referral Hospitals. He was referred to Main Hospital, Kothagudem for examination by the General Surgeon & General Physician vide Letter dt.04.05.2019. He was examined and found that he is a case of persistent sinus *Brady Cardia large hiatus hernia* and he was referred to PACE HOSPITAL, Hyderabad for *post prandial epigastric pain + retrosternal pain by the Gastroenterologist & Herpetologist*. The Gastroenterologist advised Surgery and the Cardiologist advised Electro-physiological study for persistent Brady Cardia and there was drop in the Blood Pressure.

10(a). The learned counsel for the petitioner further argued that the petitioner put-in (95) musters in 2017 inspite of taking treatment. But, punishment of 10-days suspension without wages imposed by Ref. dt.19-11-2019. That under the pretext of absenteeism in 2019, stoppage of (1) increment with cumulative effect which is due on 01.03.2022 was awarded on 14-09-2021. Within few months, the 2nd respondent dismissed the petitioner from service vide Ref. dt. 01-12-2021, alleging absenteeism during the year 2020. There is no deliberate absenteeism on the part of the petitioner and there is reasonable and sufficient cause for his not attending to duties regularly during the charge sheet periods. The respondents company admittedly imparted treatment to the petitioner in the SCCL Area Hospital and referred him to several Super Specialty Hospitals at Hyderabad, for better treatment and management, due to "*Hiatus Hernia, neck pain, tingling of right lower limb, G.I bleed, Sinus Brady cardiac with pain abdomen, Fatigue*". He was imparted treatment in the SCCL Area Hospitals, SRP & Ramagundam Area. Further, the respondents' company sent the petitioner to "Referral Hospitals" during the years 2017 to 2021, through reference letters dt.10.07.2018, 17.04.2019, 11.05.2019, 21.05.2019, 22.05.2019 and 03.09.2019. As he was undergoing prolonged treatment in the Hospitals, he could not participate in the enquiry; and the enquiry officer did not properly appreciate the facts and ill-health suffered by the petitioner and he gave his vague findings. The petitioner's health condition was badly deteriorated and he suffered from serious ill health, during the charge sheeted period and there is sufficient and reasonable cause for the petitioner for not attending to duties during charge sheet period.

10(b). The learned counsel for the Petitioner/workman further argued that imposing the capital punishment of dismissal from service without any prior show cause notice is against the principles of natural justice. The extremely harsh punishment of dismissal is highly excessive and shockingly disproportionate, which amounts to economic death of the petitioner. Ever since his dismissal from service, the petitioner is out of employment and could not secure any other alternative job in spite of his best efforts. He hails from a very poor family and has no other source of livelihood to feed his family members. Therefore, he prayed to allow the petition with full back wages, as prayed for.

POINT No.1:

11. In this matter, initially the petitioner/workman denied the validity and legality of the enquiry report. But on 04.03.2024, the learned counsel for petitioner filed Memo U/Sec.11-A of I.D Act by accepting the procedure of domestic enquiry to be fair and valid. Hence, there is no dispute that the Enquiry Officer has followed the principles of natural justice. Now the next question is whether the misconduct is proved in the facts of the case and the findings are not perverse. So, this Tribunal is to re-appreciate the evidence and come to its own conclusion with regard to finding guilty or not based on evidence. Accordingly, the Point No.1 is answered.

POINT No.2 & 3:

12. In view of the pleadings of the Petitioner/Workman as well as Respondents/corporation as well as in view of the rival arguments of their respective counsel now this Court will go into the evidence on record. Admittedly, the petitioner was dismissed from service by Ref. dt.01.12.2021 wherein it is alleged that the petitioner was absent from duty without sanctioned leave or sufficient cause during the year 2020. From a perusal of the record, it shows that Charge Sheet dt.20.01.2021 was issued to the petitioner, which is marked as Ex.M-16. It is evident from the charge sheet that the petitioner absented to duties during the year 2020 and further he put in 196 muster during the year 2015, 126 musters during the year 2016, 95 musters during the year 2017, '45' musters during the year 2018 and 08 musters during the year 2019. Domestic enquiry was conducted and the enquiry proceedings are marked as Ex.M-18. Further, a perusal of Ex.M-18 proceedings of enquiry shows that the Petitioner/Workman failed to participate in the domestic enquiry and remained absent and it is evident that the petitioner absented to duty during the year 2020 without

sanctioned leave. Further, the 7 days notice was published in Telugu Daily paper dt.05.06.2021 which is marked as Ex.M-19. The dismissal order is marked as Ex.M-21 and name removal letter is marked as Ex.M-22.

13. Apart from the above, the petitioner/workman submitted the SCCL Hospital medical prescriptions, SCCL reference letters, NIMS Hospital, Kamineni Hospital, Virinchi Hospital and MEDLIFE Hospital medical documents which are marked as Ex.W-1 to Ex.W-63 wherein it shows that he was imparted prolonged treatment for "*Hiatus Hernia, neck pain, tingling of right lower limb, G.I bleed, Sinus Brady cardia with pain abdomen, Fatigue*". Further, it shows that he was imparted treatment in the SCCL Area Hospitals, SRP & Ramagundam Area and respondents' company through reference letters dt.10.07.2018, 17.04.2019, 11.05.2019, 21.05.2019, 22.05.2019, 03.09.2019 and 06.06.2021 sent the petitioner to "Referral Hospitals" viz., NIMS, Kamineni, Virinchi and MEDLIFE Hospitals at Hyderabad during the years 2017 to 2021. Several medical documents submitted by the petitioner were issued by the SCCL Hospitals, Kamineni and other Hospitals, which prima-facie show that the petitioner suffered from ill-health and that he was imparted prolonged treatment during the year 2017 to 2021. The petitioner explained that due to ill-health and family problems, he absented to duties during the charge sheet year of 2020 and prayed to consider his case sympathetically. However, respondents/ company dismissed the petitioner/workman from service by Proc. dt.01.12.2021 which is marked as Ex.M-21. Thus, it is evident from the enquiry proceedings under Ex.M-18 as well as the material on record, that the petitioner had not put in minimum required musters of 190 during the year 2020 for which he submitted that due to ill-health he was unable to perform duty regularly during the charge sheet period and submitted medical prescriptions and reports, which are marked as Ex.W-1 to Ex.W-63.

14. Further, Sri Kukkala Paul Srujan, Senior Personnel Officer who was examined before this Court by the Respondents' Company as MW-1, clearly deposed that: "*The petitioner was extended medical facilities by the Respondent Company for the injuries sustained by him and further the petitioner being a case of Haematemesis + Haematochezia was referred to CMO, Kothagudem vide reference letter dt.07.09.2018 by the Dy.CMO, AH., RKP for treatment and for fitness for duty. Further, he was referred to Kamineni Hospital vide letter dt.17.04.2019 & CMO, KGM on 04.05.2019. .. The petitioner was also extended medical facilities by this Respondent Company for the ailments which he was suffering for.*" MW-1 further admitted during his cross-examination that: "*It is true that the petitioner met with Mine Accident. It is true our company's responsibility to provide the medical treatment to the petitioner. The petitioner was referred to the referral hospitals. Later, without obtaining referral letter from mine, the petitioner underwent treatment in other hospitals.*"

15. In view of the above oral and documentary evidence adduced before this Tribunal, it is evident that the petitioner/workman suffered from ill-health and he was imparted treatment during the charge sheets period and hence the defense put-forth by him appears to be plausible. However, it is clear that the petitioner has not attended to duties during the charge sheet year of 2020 and the charge was amply proved against him basing on record.

15(a). Here, it is clearly evident from the record that the petitioner did not apply for sanction of any leave as per the Company's Standing Orders. Further, he did not obtain any prior sanction of leave during the charge sheet period and admittedly he was habitually absent to his duties as mentioned in the charge sheet. He did not choose to attend/participate in the enquiry proceedings inspite of giving ample opportunity and exparte enquiry was conducted. Under these circumstances, though the petitioner took treatment for his ailment, his case comes under mitigating circumstance.

15(b). Therefore, it can be said that the respondents/company has no axe to grind against the petitioner. Hence, this Tribunal has no hesitation to hold that the charge leveled against the petitioner/ workman is proved and misconduct of the workman is established basing on the evidence and the findings of enquiry officer are not perverse. But at the same time, much gravity cannot be attributed to the petitioner since his ill-health and treatment imparted by SCCL and other referral hospitals is supported by the oral and documentary evidence produced before this Tribunal, which shows that there is reasonable cause for the petitioner's absence during the charge sheets period.

16. Here, learned counsel for the Petitioner strenuously contended that the petitioner was appointed in the year 2009 as a dependant of his deceased father who died while in service and put in more than 100 musters for four years from 2013 to 2016. The petitioner submitted the referral letters dt.10.07.2018, 17.04.2019, 11.05.2019, 21.05.2019, 22.05.2019 and 03.09.2019 issued by Company Hospitals, wherein, it shows that the respondents' company referred the petitioner to "Referral Hospitals", Hyderabad, through the above reference letters for imparting treatment to him. It appears from the medical documents submitted by the petitioner that he was suffering from:

"Hiatus Hernia, neck pain, tingling of right lower limb, G.I bleed, Sinus Brady cardia with pain abdomen, Fatigue" and that the petitioner being a case of Haematemesis + Haematochezia, he was referred to CMO, Kothagudem vide referred letter dt.07.09.2018 by Dy.CMO, AH, RKP for treatment and for fitness for duty. Further, he was referred to Kamineni Hospital vide letter dt.17.04.2019 and CMO, KGM on 04.05.2019"

The learned counsel further contended that the petitioner hails from a very poor family, he has got no other livelihood and facing untold financial problems, and prayed to consider the case U/Sec.11-A of I.D. Act. Here, in support of his above contentions, the learned counsel for the petitioner relied upon the following citations:-

- 1) HON'BLE SUPREME COURT JUDGMENT REPORTED IN AIR 1988 SC 303 – Between: Scooter India Ltd, Labour Court, Lucknow & ors:

In this case, the Labour Court while holding that enquiry had conformed to statutory prescriptions and principles of natural justice, yet held that order of termination was not justified and ordered for reinstating employee with 75% back wages. Wide powers are vested in Labour Court or Tribunal. Labour Court can temper justice with mercy and give an opportunity to an erring workman to reform himself. Order of Labour Court granting relief of reinstatement with 75% back wages was upheld by Hon'ble Supreme Court.

2) HON'BLE HIGH COURT JUDGMENT IN W.A. No.1101/2008 and W.P.No.7671 of 2000, dt.07.04.2009 D.B. Judgment:

In this case, the Labour Court granted reinstatement with continuity of service and half-of back wages. The Hon'ble High Court held that since the petitioner remained unemployed from the date of removal, modified the award of Labour Court by granting full back wages.

- 3) Judgment of Hon'ble Supreme Court, dt.24-08-2009 in Civil Appeal No.5762 of 2009, Between: Coal India Ltd. & Anr Vs. Mukul Kumar Choudari and others.
- 4) Judgment of Hon'ble Supreme Court dt.14-05-2009 Between: Jagadish Singh Vs. Punjab Engineering College and others.

In the above cited Judgments, their Lordships have observed that that the punishment should be in commensurate with the gravity of charges and it should not be shockingly disproportionate. Further, this Tribunal is adhering to the ratio laid down by their Lordships as applicable to the facts of the present case on hand, to the extent of reinstatement only.

16(a). Further, this Tribunal has relied upon a decision of the Hon'ble High Court reported in 2012 (1) ALD 220 (DB), wherein their lordships observed that:

"The Industrial Disputes Act, 1947 is a social welfare legislation, which required to be interpreted keeping in view the goals set out in the Preamble and Directive principles of State Policy in Part-IV of the Constitution. The Labour Court is conferred with very wide discretion U/Sec.11-A. The Industrial Court conferred with very wide discretion U/Sec.11-A of the Act for granting appropriate relief".

17. Here, their Lordships of the Hon'ble Gujarat High Court in a case rendered on 04.05.1994, Between: Management of Glaxo India Ltd., Vs. State of Assam and 3 others categorically observed that **"a Labour Court is required to settle a dispute according to the principles of natural justice, equity and good conscience and law without attaching undue importance to legal technicalities"**.

18. Therefore, in view of the above decisions and the facts and circumstances of the case, if we come to quantum of sentence it is settled law that the discretion of which can be exercised U/Sec.11-A is available only on the existence of certain factors like punishment being disproportionate to the gravity of misconduct so as to shock the conscience of the Court, or the existence of any mitigating circumstances which require the reduction of the sentence, or the past conduct of the workman which may persuade the Labour Court to reduce the punishment. A perusal of record shows that the petitioner suffered from ill-health and submitted several medical documents in support of the treatment imparted to him by SCCL Hospitals and other referral hospitals. Further, the petitioner submitted that he hails from a very poor family and has got no other livelihood and facing untold financial problems, hence prayed to consider the case U/Sec.11-A of I.D., Act. The petitioner is out of employment since 2021 and there is reasonable and sufficient cause for his absence to duties during charge sheets period, as the ill-health suffered by the petitioner is substantiated by the oral and documentary evidence adduced before this Tribunal. In view of the above mitigating circumstances of the case, this Tribunal is of the opinion that the extreme punishment of dismissal from service imposed by the respondents/company against the petitioner deserves to be modified since the disciplinary authority cannot be permitted to act arbitrarily and work like a *Roman Knight* and it cannot be allowed a *fight between David and Goliath* as in the present case on hand. Moreover, facts of this case attracts the proverbial saying *"Every saint has a past and every sinner has a future"* and Biblical proverbs *"Speak up for those who cannot speak for themselves, for the rights of all who are destitute"* and *"Speak up and judge fairly; defend the rights of the poor and needy."* Further, *"Heavens would not have fallen if one more opportunity is given for the petitioner by giving reinstatement"*.

19. This Tribunal has perused, analyzed and meditated upon the case on hand, the case laws and principles of law referred above. In view of the facts and circumstances of this case and keeping in view the principle of *"temper justice with mercy"* and to meet the ends of justice, this Tribunal is of the considered opinion that the extreme punishment of removal from service is disproportionate and shocks the conscience of this Tribunal and hence, it deserves to be modified appropriately. However, since the charge leveled against the petitioner is proved, the relief is to be moulded by this Tribunal appropriately and considering the mitigating circumstances discussed supra, the petitioner is entitled to be reinstated into service only. But, the petitioner is not entitled to any back wages, any attendant benefits and any continuity of service during the intervening period from the date of his dismissal to till date and it shall be treated as *"Not on duty"* for all purposes, which would be a deterrent punishment to the petitioner. However, the past service rendered by the petitioner shall be protected for all purposes. Hence, the punishment of dismissal from service imposed by the Respondents' Company is hereby modified. Accordingly, the Point No. 2 & 3 are answered.

20. **IN THE RESULT**, the petition is partly allowed. The dismissal order dt.01.12.2021 under Ex.M-21 passed by the Respondent No.2 is hereby modified. The respondents'/company is directed to reinstate the petitioner into service only, but, without any attendant benefits, without any back wages and without any continuity of service during the intervening period from the date of his dismissal to till date and it shall be treated as "Not on duty" for all purposes. However, the past service rendered by the petitioner shall be protected for all purposes and the petitioner is entitled to the salary only from the date of publication this Award. Copy of the Award be sent to the appropriate Government for publication. Both parties shall bear their own costs.

Typed to my dictation, corrected and pronounced by me in the open court, on this the 10th day of December, 2024.

Dr. T. SRINIVASA RAO, Chairman-cum-Presiding Officer

APPENDIX OF EVIDENCE

WITNESSES EXAMINED

FOR WORKMAN:-

WW-1: Gorremutchu Anil Kumar
Petitioner/Workman

FOR MANAGEMENT:-

MW-1: Kukkala Paul Srujan.
Senior Personnel Officer

EXHIBITS MARKED

FOR WORKMAN:-

Ex.W-1	Dt.	01.10.2010	SCCL letter showing mine accident met by the petitioner causing from serious injury.
Ex.W-2	Dt.	04.12.2010	NIMS Hospital, Hyderabad Medical record of petitioner.
Ex.W-3	Dt.	04.12.2010	NIMS Hospital, Hyderabad, OP Card of Petitioner.
Ex.W-4	Dt.	04.12.2020	NIMS Hospital, Hyderabad Medical report of Petitioner.
Ex.W-5	Dt.	17.01.2021	SCCL Area Hospital medical prescription of petitioner for his right ILIAC CREST injury in mine accident.
Ex.W-6	Dt.	17.06.2021	SCCL Area Hospital medical prescription of petitioner for his right ILIAC CREST injury in mine accident.
Ex.W-7	Dt.	02.03.2012	SCCL Area Hospital medical prescription.
Ex.W-8	Dt.	02.03.2012	SCCL hospital treatment for injury to index finger while working in mine.
Ex.W-9	Dt.	02.03.2012	SCCL hospital treatment for injury to index finger while working in mine.
Ex.W-10	Dt.	03.03.2012	SCCL Area Hospital medical prescription.
Ex.W-11	Dt.	19.05.2012 to 28.05.2012	SCCL hospital medical prescriptions.
Ex.W-12	Dt.	29.05.2012 to 10.07.2012	SCCL Area Hospital medical prescription of the petitioner.
Ex.W-13	Dt.	15.06.2012	SCCL Area Hospital reference letter to main hospital, Kothagudem Senior Ortho Surgeon.
Ex.W-14	Dt.	18.06.2012 to 25.06.2012	SCCL Main Hospital Discharge Card imparting treatment.
Ex.W-15	Dt.	22.06.2012	SCCL Physiotherapy treatment card.
Ex.W-16	Dt.	17.07.2012	SCCL Area medical prescription for right ILIAC CREST pain.
Ex.W-17	Dt.	13.06.2012 to 23.07.2012	SCCL Area Hospital Fit Certificate imparting treatment and petitioner allowed to duty.
Ex.W-18	Dt.	20.05.2013	SCCL reference letter to Deccan Hospital, Hyderabad for MRI LS Spine.
Ex.W-19	Dt.	11.07.2013	SCCL main hospital treatment imparted and petitioner advised fit only after one week by area hospital.
Ex.W-20	Dt.	06.03.2014	SCCL area hospital treatment medical prescription.
Ex.W-21	Dt.	24.07.2014	SCCL hospital medical treatment imparted for two days.

Ex.W-22	Dt.	24.07.2014 to 29.07.2014	SCCL area hospital fit certificate imparting treatment and petitioner allowed to duty.
Ex.W-23	Dt.	10.10.2017	SCCL hospital discharge card.
Ex.W-24	Dt.	09.10.2014 to 12.10.2017	SCCL area hospital fit certificate imparting treatment.
Ex.W-25	Dt.	16.05.2019	SCCL area hospital, RKP (SRP) medical prescription of the petitioner.
Ex.W-26	Dt.	16.05.2019	SCCL area hospital, RKP (SRP) medical prescription of the petitioner.
Ex.W-27	Dt.	09.06.2018	SCCL reference letter to the Deccan hospital, Hyderabad for imparting treatment to the petitioner.
Ex.W-28	Dt.	14.06.2018	SCCL area hospital reference letter to SCCL area hospital, GDK for G.I. bleeding of the petitioner.
Ex.W-29	Dt.	10.07.2018	SCCL reference letter to the Deccan hospital, Hyderabad for imparting treatment to the petitioner.
Ex.W-30	Dt.	-	Discharge Summary by Deccan hospital, hyderabad 3 papers showing ill health suffered by petitioner.
Ex.W-31	Dt.	07.09.2018	SCCL reference letter to main hospital, kothagudem.
Ex.W-32	Dt.	06.12.2018	SCCL area hospital, RKP (SRP) medical prescription of the petitioner.
Ex.W-33	Dt.	17.04.2019	SCCL reference letter to Kamineni Hospitals, L.B. Nagar, Hyderabad.
Ex.W34	Dt.	17.04.2024	Medical history of petitioner, endoscopy report, colour doppler, X-ray report, US report and CT report of petitioner by Kamineni hospital, Hyderabad.
Ex.W35	Dt.	18.04.2019	CT report of petitioner by kamineni hospital, hyderabad.
Ex.W36	Dt.	17.04.2019	Clinical reports of petitioner by Kamineni hospital, Hyderabad.
Ex.W37	Dt.	20.04.2019	Discharge Summary of Kamineni hospital, Hyderabad.
Ex.W-38	Dt.	24.04.2019	Certificate of Kamineni hospital, Hyderabad.
Ex.W-39	Dt.	-	Medical prescription of petitioner by Kamineni hospital, Hyderabad 3 papers.
Ex.W-40	Dt.	04.05.2019	SCCL reference letter to the main hospital, kothagudem regarding treatment and fitness for duty.
Ex.W-41	Dt.	11.05.2019	SCCL reference letter to PACE hospital, Hyderabad.
Ex.W-42	Dt.	20.05.2019	Discharge Summary of Petitioner by the PACE hospital, Hyderabad.
Ex.W-43	Dt.	21.05.2019	SCCL reference letter to vinrinchi hospital, Hyderabad for further evaluation.
Ex.W-44	Dt.	22.05.2019	SCCL reference letter to vinrinchi hospital, Hyderabad for further evaluation.
Ex.W-45	Dt.	03.09.2019	SCCLp reference letter to Sunshine hospital, Hyderabad.
Ex.W-46	Dt.	12.09.2019	MRI Cervical Spine of Sunshine hospital, Hyderabad.
Ex.W-47	Dt.	12.09.2019 to 17.09.2019	Medical prescription by sunshine hospital, hyderabad.
Ex.W-48	Dt.	17.09.2019	MRI Brain of the petitioner by sun shine hospital, hyderabad.
Ex.W-49	Dt.	18.11.2019	SCCL Area Hospital, Medical prescription.
Ex.W-50	Dt.	05.01.2020	Medlife Hospital, Vishakapatnam Medical Prescriptions of Petitioner.

Ex.W-51	Dt.	05.02.2020	Medlife Hospital, Vishakapatnam Medical Prescriptions of Petitioner.
Ex.W-52	Dt.	08.04.2020	Medlife Hospital, Vishakapatnam Medical Prescriptions of Petitioner.
Ex.W-53	Dt.	10.04.2020	Medlife Hospital, Vishakapatnam Medical Prescriptions of Petitioner.
Ex.W-54	Dt.	11.04.2020	Medlife Hospital, Vishakapatnam Medical Prescriptions of Petitioner.
Ex.W-55	Dt.	16.04.2020	Medlife Hospital, Vishakapatnam Medical Prescriptions of Petitioner.
Ex.W-56	Dt.	06.06.2020	Medlife Hospital, Vishakapatnam Medical Prescriptions of Petitioner.
Ex.W-57	Dt.	02.08.2020	Medlife Hospital, Vishakapatnam Medical Prescriptions of Petitioner.
Ex.W-58	Dt.	09.10.2020	Medlife Hospital, Vishakapatnam Medical Prescriptions of Petitioner.
Ex.W-59	Dt.	22.11.2020	Medlife Hospital, Vishakapatnam Medical Prescriptions of Petitioner.
Ex.W-60	Dt.	03.01.2024	Appeal preferred by the petitioner.
Ex.W-61	Dt.	06.03.2023	O/c of Demand letter of the petitioner by RPAD and Ack of R-2.
Ex.W-62	Dt.	31.05.2021	Medical OP (Male) Registration of petitioner with O.P.No. 57076493724 at SCCL Disp-4.
Ex.W-63	Dt.	06.06.2021	Reference Form for treatment of petitioner forwarded from the time.

FOR MANAGEMENT:

Ex.M-1	Dt.	01.03.2013	Attested Copy of warning letter issued to the petitioner in view of Charge Sheet vide Lr.No. SRP/PER/13/008/1284.
Ex.M-2	Dt.	20.03.2013	Attested Copy of Charge Sheet issued to the petitioner Vide Lr.No.IK. IA/2013/R.08/767.
Ex.M-3	Dt.	05/06.05.2013	Attested copy of show cause notice to the petitioner vide Lr.No. SRP/PER/13.008/3328.
Ex.M-4	Dt.	24.09.2015	Attested copy of charge sheet issued to petitioner Vide Lr.No.IK. IA/2015/R10/2874.
Ex.M-5	Dt.	24.03.2018	Attested copy of charge sheet issued to petitioner vide Vide Lr.No.IK. IA/2018/R.08/1032.
Ex.M-6	Dt.	19.03.2018	Attested copy of Enquiry notice to the petitioner.
Ex.M-7	Dt.	04.04.2018	Attested copy of enquiry proceedings.
Ex.M-8	Dt.	04.04.2018	Attested copy of application by the petitioner.
Ex.M-9	Dt.	06.04.2018	Attested copy of enquiry report and enquiry proceedings.
Ex.M-10	Dt.	28.01.2019	Attested copy of charge sheet issued to petitioner vide Lr.No. SRP/IK. IA/2019/R.08/364.
Ex.M-11	Dt.	19.11.2019	Attested copy of disciplinary action against petitioner vide SRP/IK. IA/2019/R.07/5876.
Ex.M-12	Dt.	20.02.2020	Attested copy of charge sheet issued to petitioner vide Lr.No. SRP/IK.IA/2020/R.08/897
Ex.M-13	Dt.	12.10.2020	Attested copy of publication of show cause notice in telugu daily vide SRP/IK.IA/2020/R.08 / 897.
Ex.M-14	Dt.	21.10.2020	Attested copy of enquiry proceedings.
Ex.M-15	Dt.	30.11.2020	Attested copy of show cause notice to the petitioner vide

			SRP/IK.IA/R.08/2020/5349.
Ex.M-16	Dt.	20.01.2021	Attested copy of charge sheet issued to petitioner vide Lr.No. SRP/IK.IA/2021/R.08/344
Ex.M-17	Dt.	28.01.2021	Attested copy of publication of show cause notice in Telugu daily vide SRP/IK.IA/2020/R. 08/897.
Ex.M-18	Dt.	27.04.2021	Attested copy of enquiry proceedings.
Ex.M-19	Dt.	05.06.2021	Attested copy of publication of show cause notice in telugu daily vide SRP/IK.IA/2020/ R.08 / 897.
Ex.M-20	Dt.	18/14.09.2021	Attested copy of disciplinary action against petitioner i.e., stoppage of one increment vide SRP/PER/13.008/6106.
Ex.M-21	Dt.	01.11/12.2021	Attested copy of dismissal order of petitioner vide Lr.No. SRP/ PER/13008/7615.
Ex.W-22	Dt.	03.12.2021	Attested copy of name removal letter of petitioner vide Lr.No. SRP/IK.IA/2021/PO1/5685.
Ex.W-23	Dt.	05.09.2024	Authorization letter.

नई दिल्ली, 7 जनवरी, 2025

का.आ. 2319.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल.के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में दलित; l j dkj v k | k f x d v f / k d j . k - सह - Je ll; k; ky; , जबलपुर के पंचाट(एलसी-आर/127/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30@12@2024 को प्राप्त हुआ था।

[सं. एल – 22012-138-2012-आईआर (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 7th January, 2025

S.O. 2319.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference.LC/-R/127/2012**) of the **Central Government Industrial Tribunal-cum-Labour Court, Jabalpur** as shown in the Annexure, in the industrial dispute between the Management of S.E.C.L., and their workmen, received by the Central Government on **30/12/2024**.

[No. L-22012-138-2012-IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

No. CGIT/LC/R/127/2012

Present: P.K.Srivastava

H.J.S..(Retd)

The General Secretary,

Koyla Mazdoor Sabha (HMS),

Qtr. No. M/91, Vikas Nagar, Post- Kusmunda

District-Korba, Chattisgarh.

Workman

Vs

1. The General Manager,

SECL Kusmunda Area, Post-Kusmunda,

District-Korba, Chattisgarh.

2. The General Manger (P&A)

**SECL H.Q., Sipat Road, Bilaspur,
Chattisgarh.**

Management

(JUDGMENT)

(Passed on this 08th day of November-2024)

As per letter dated 05/11/2012 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act') as per Notification No. L-22012/138/2012-IR (CM-II) dt. 05/11/2012. The dispute under reference relates to:

“Whether, the action of the management of (i) the General Manager, Kusmunda Area of SECL Kusmunda, District Korba (CG) as well as the General Manager (P&A), SECL H.Q. Bilaspur (CG) is not correction the date of birth of Sh. Laxmi Prasad Yadav, Shovel Operator on the basis of the Matriculation Certificate at the time of the appointment as per I.I. No. 76 of NCWA was legal, proper and justified? What relief the said workman is entitled to and from what date?”

Case of the workman, as taken in his statement of claim, is mainly that he was first appointed as a Driver on 04/04/1985 and has submitted his Matriculation Certificate issued in 1980 by the Board of Secondary Education Madhya Pradesh containing his date of birth recorded as 10/11/1960. He also produced his Driving License containing date of his birth as 10/11/1960 at the time of his first appointment. The Medical Officer assessed his age 25 years as on 31.03.1985 at the time of his Initial Medical Examination under Rule 29 of Mines Rules, 1955 whereas he was only 24 year 4 months and 21 days. In the Form B register, prepared by the Management at the time of his first appointment, as date of birth was recorded as 01/01/1960 which was against the documents and even the medical examination report. In the Form-A filed by the Workman for the Coal Mines Provident Fund as date of birth re-correctly recorded as 10.11.1960 and was duly recorded by Colliery Manager the competent Authority. Even in his service excerpts issued by management on 13.09.1987, as date of birth was correctly recorded also as Educational Qualification was mentioned as Matriculation passed. The Management, ignoring the date of his birth as mentioned above in the records, forcibly Superannuated the workman on the basis of his date of birth mention in Form B registered which was against law, unjust and arbitrary, the workman has thus requested that holding the action of management in Superannuating him on the basis of his date of Birth 01.01.1960, against law, unjust and arbitrary the Workman be entitled to be deemed in service and superannuated on the basis of his correct date of birth 10.11.1960. And also be held entitled to all service as well post retrial benefits.

Management has taken a case that the Workman did not produce any documents with regard to his age and date of Birth at the time of his first appointment and declared his date of birth as 01.01.1960 which was mention in the form B register, counter signed by the workman. He was transferred thereafter to other colliery where his Form-B was prepared the same date of birth 01.01.1960 was mentioned in the Form-B prepared in different Colliery consequent to his transfer. In the year 1987, service exhibits of the Workman were issued mentioning his date of birth 01.01.1960 but he never raised objection with respect to the entry of the date of workman in the service Exhibits mentioned 10.11.1960, management has pleaded that it was the workman who had manipulated the entry. Thus, according to the management, its action in superannuating the workman taking his date of birth as 01.01.1960 is just legal and proper.

The workman has filed his rejoinder were in he is mainly retreated his case.

In evidence, the workman filed his petition regarding raising disputes before ALC, reply of management on rejoinder of the workman before ALC and other reply of the management before the ALC failure of conciliation report, all admitted by management and marked Ex. W-1 to W-8. The workman further filed copy of his Matriculation Certificate and has proved.

Management filed and proved copy of service register of the workman and copies of Form-B, Form PS-3 and PS-4 service extract which are exhibit M 1 to M 7.

The workman Laxmi Prasad has filed his affidavit as his examination in chief he has been crossed examined by the management. Management has filed the affidavits of its witness Rohit Shrivastava which has been cross examined by the workman side.

I have heard argument of Learned Counsel Shri Subodh Agrawal for Workman and Shri Neeraj Kewat for workman. The workman side has filed written argument. I have gone through the written arguments and the record as well.

From the perusal of evidence of the management witness, documents, it is evident that the dispute regarding correction of date of birth of the Workman raised by him before the management, was considered and his date of birth was revised as 31.03.1960 by management. In the light of fact, the Sole issue for determination remains the following.

“Whether the action of management in revising the dated of birth of the workman Laxmi Prasad Yadav from 01.01.1960 to 31.03.1960 is correct in law and fact ?”

Not disputed is a fact that the workman was first appointed as driver, **secondly**, he would have his driving license and at last he would not have illiterate at the time he applied for the post and was selected. Case of management and its witness is that it was the workman himself who disclosed his date of birth as 01.01.1960 at the time of his first appointment when a Monitory Form No.-B was being prepared. It is further the case of management that the workman deed advocated the entries by putting his signatures on firm bill. Be rectifying the date of birth of the workman, management itself accepts that his date of birth 01.01.1960 recorded by management in their records was in fact not correct. And that is why the management entered in the dispute regarding date of birth of the workman.

The Implementation Institutions No. 76 (II76) issued under National Coal Wage Agreement (NCWA-III) provide the procedure to deal with age and date of birth disputes of the workman.

There is on record, order of management dated 10.02.2016 which is an office order which goes to disclose that in the light of letter No. 1074 dated 29.09.2015, the comments note no. 916 dated 01.08.2015 & the letter of Deputy General Manager (Personnel), letter No. 8030 dated 03.10.2015, the date of birth of the workman Laxmi Prasad Yadav is changed to 31.03.1960 as recommended by Competent Authority. Management has not filed the basis of the recommendation by the Competent Authority. The management witness has stated in his affidavit as his examination in chief that to resolve the age dispute, the Competent Authority constituted a Committee under his order No. 661 dated 07.02.2015, who examined the case in the light of I.I. 76 and NCWA-III and submitted its report in which the workman had declared his age/ D.O.B. 25 years as on 31.03.1985 and treated the date of birth 31.03.1960 recorded in I.M.E. from-O treated as correct.

According to the I.I. 76,, in case of appointees who had passed matriculation or equivalent examination, the date of birth recorded in the said certificate shall be treated as correct date of birth and the same shall not be altered in any circumstances.

Hence, the Committee constituted was under obligation in law to consider the date of birth of the workman recorded in his matriculation certificate as conclusive. It has to be kept in mind that the workman was appointed as driver, naturally he would have produced his driving license which contains date of birth of the licensee.

In the light of the above discussion, the action of management/ age determination committee in ignoring the date of birth of the workman recorded in his matriculation certificate is held against law and unjustified. Consequently, the action of management in superannuating the workman on the basis of his date of birth other than that recorded in his matriculation certificate i.e. 10.11.1960 is also held against law and the workman is held entitled to be deemed in service till the date of his superannuation on the basis of his date of birth 10.11.1960 and is further held entitled to all the consequential in service and post retiral benefits.

Accordingly, the reference is answered as follows.

AWARD

Holding the action of management/ age determination committee in ignoring the date of birth of the workman recorded in his matriculation certificate against law and unjustified, the action of management in superannuating the workman on the basis of his date of birth other than that recorded in his matriculation certificate i.e. 10.11.1960 is also held against law and the workman is held entitled to be deemed in service till the date of his superannuation on the basis of his date of birth 10.11.1960 and is further held entitled to all the consequential in service and post retiral benefits. No order as to cost.

DATE:- 08/11/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 7 जनवरी, 2025

का.आ. 2320.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **सह - Je U; k; ky; , आसनसोल के पंचाट (सन्दर्भ संख्या 04/2022) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20@12@2024 को प्राप्त हुआ था।**

[सं. एल - 22012-19-2022-आईआर (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 7th January, 2025

S.O. 2320.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference. I.D. No. 04/2022** of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **20/12/2024**.

[No. L-22012-19-2022-IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 04 OF 2022

PARTIES: Ranjit Kumar Mahato
(dependant son of Ram Chandra Mahato)

Vs.

Management of Modern Satgram Colliery of ECL.

REPRESENTATIVES:

For the Union/Workman: Mr. Rakesh Kumar, President, Koyala Mazdoor Congress.

For the Management of ECL: Mr. P. K. Das, Advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 26.11.2024

AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/19/2022-IR(CM-II)** dated 24.02.2022 has been pleased to refer the following dispute between the employer, that is the Management of Modern Satgram Colliery under Satgram Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“ Whether the action of the Management of M/s. Eastern Coalfields Ltd. in relation to its Modern Satgram Colliery (under Satgram Area) in delaying / denying the Employment claim of Shri Ranjit Kumar Mahato, dependent son of Late Ram Chandra Mahato, Ex-Surface Looseman, UM No. 373979 is just and legal? If not, to what relief Shri Ranjit Kumar Mahato is entitled to? ”

1. On receiving Order **No. L-22012/19/2022-IR(CM-II)** dated 24.02.2022 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 04 of 2022** was registered on 14.03.2022 / 01.07.2022 and an order was passed for issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Written statement was filed by the President of Koyala Mazdoor Congress on 10.08.2022 on behalf of Ranjit Kumar Mahato. Brief fact of the case as disclosed in the written statement is that Ram Chandra Mahato worked as a Looseman at Modern Satgram Colliery under Satgram Area of Eastern Coalfields Limited (hereinafter referred to as ECL) as a permanent employee bearing UM No. 373979. He died in harness on 28.10.1994. According to the provision of Clause 9.3.2 of National Coal Wage Agreement – V (hereinafter referred to as NCWA-V) one dependant of the workman, who died while in service is entitled to employment. Accordingly, Ranjit Kumar Mahato, dependant son of Ram Chandra Mahato applied for his employment under ECL but the management did not accept the request. Initially on the plea that his father was dismissed from the service of the company on the charge of unauthorized absence. Ram Chandra Mahato was suffering from Tuberculosis and was admitted at Tuberculosis Hospital, Searsole which was informed to the management of the colliery and there was no communication to the workman before his death about dismissal. The Competent Authority of ECL, on intervention by the union treated Ram Chandra Mahato to be in the roll of the company at the time of death and processed the proposal for employment of his dependant son.

After proper screening at colliery and Area level, medical examination was held by the Initial Medical Examination (hereinafter referred to as IME) Board, which found the dependant son fit for employment. The General Manager of Area recommended the proposal for employment and sent the same to the Eastern Coalfields Limited Headquarters. Some queries were made regarding discrepancies in the name of the applicant. The management of the colliery after completing verification and all formalities again forwarded the proposal for employment to the ECL Headquarters. Some clarifications were sought by the ECL Headquarters through letter bearing no. Ref: ECL/CMD/C-6B/EMPL/WD-2230/11/387 dated 05.08.2011, which was replied by the dependant son. It is the contention by the union that till date the management of ECL has not taken any final decision on the prayer for employment and no communication was made to him. It is urged that there is an inordinate delay on the part of the management and the dependant son is suffering due to delay and inaction of the management. The union has prayed for providing employment to the dependant son and all other consequential benefits which he is entitled to.

3. In support of its case the union has examined Ranjit Kumar Mahato as Workman Witness – 1 and Smt. Siya Devi, wife of Ram Chandra Mahato as Workman Witness – 2. Documents produced have been admitted in evidence as follows:

- (i) Copy of the Death Certificate of Ram Chandra Mahato has been marked as Exhibit W-1.
- (ii) Copy of the Service Record Excerpt of Ram Chandra Mahato, as Exhibit W-2.
- (iii) Copy of the Application dated 13.12.1994 submitted by the wife of Ram Chandra Mahato for providing employment to the dependant son, as Exhibit W-3.
- (iv) Copy of the Application dated 31.10.1994 submitted by the wife of Ram Chandra Mahato, claiming employment and other benefits, as Exhibit W-4.
- (v) Copy of the Letter 13.05.1997 issued by Dy. Chief Personnel Manager of Satgram Area addressed to the Agent, Jemehari Colliery, as Exhibit W-5.
- (vi) Copy of the Letter dated 27.09.1997 informing Ranjit Kumar Mahato to appear before the Area Medical Officer, Satgram Area, as Exhibit W-6.
- (vii) Copy of the Letter dated 31.03.1998 issued by the Manager, Jemehari (R) Colliery, as Exhibit W-7.
- (viii) Copy of Letter dated 24/28.04.1998 issued by the Deputy Personnel Manager, Satgram Area, relating to some discrepancies in the name of the applicant in the school certificates, as Exhibit W-8.
- (ix) Copy of the Letter dated 05.08.2011 issued by the Manager (Personnel)/Empl. WD addressed to the Chief Manager (Personnel) proposing a discreet screening and resubmission of all documents in the form of a Note Sheet along with reports of two men committee and police verification has been produced as Exhibit W-9.
- (x) Copy of letter dated 17.12.2011 issued by Senior Manager (Personnel) seeking submission of some documents like Voter Identity Card and Ration Card, as Exhibit W-10.
- (xi) Copy of letter dated 07.03.2011 proposing IME of some dependents for providing employment, as Exhibit W-11.
- (xii) Copy of the Application dated 13.09.2018 addressed to Sr. Manager (Personnel) requesting the status of employment proceeding, as Exhibit W-12.
- (xiii) Copy of the letter dated 05.11.2018 issued by Sr. Manager (Personnel), Jemehari Colliery regarding submission of clarification, documents and employment file of Ranjit Kumar Mahato, as Exhibit W-13.
- (xiv) Copies of the Applications dated 21.11.2019, 04.03.2021 and 26.10.2022, submitted by Ranjit Kumar Mahato from time to time as reminder for providing employment have been collectively marked as Exhibit W-14.
- (xv) Copy of the Aadhaar Card of Ranjit Kumar, as Exhibit W-15.
- (xvi) Copy of the Voter Identity Card, as Exhibit W-16.
- (xvii) Copy of BPL card of the year 2010 of Siya Devi, as Exhibit W-17.

4. In course of cross-examination of Ranjit Kumar Mahato (WW-1) deposed in the School Final Certificate that his father's name appears as Ram Chandra Singh and in the Service Record the name of the deceased employee appeared as Ram Chandra Mahato and his son's name appeared as Ranjit Kumar Mahato. The witness further admitted that after submission of his application for providing employment, the management of ECL wanted to know his actual name and asked for other documents like Voter Identity Card and Aadhaar Card where his name appeared as Ranjit

Kumar and not Ranjit Kumar Mahato. The witness stated that he is unaware if Sia Devi and other lady by the name of Lakshmi Devi laid claim over Gratuity amount in respect of Ram Chandra Mahato. The witness also denied the suggestion that his name is Ranjit Kumar and not Ranjit Kumar Mahato. It is pertinent to note that the witness claimed to have complied the direction of the management in their letter dated 17.12.2011 by submitting all documents. However, no such copy of reply has been placed before the Tribunal.

5. In course of cross-examination of Sia Devi (WW-2) denied that the name of Ranjit Kumar, son of Ram Chandra Singh appears in Bihar Vidyalaya Pariksha Samiti Certificate and Ranjit Kumar Mahato, son of Ram Chandra Mahato and Ranjit Kumar, son of Ram Chandra Singh are different persons.

6. The management contested the Industrial Dispute by filing their written statement on 01.11.2022. The specific case of the management as disclosed in their written statement is that Ram Chandra Mahato was absenting from duty from 28.01.1994 and he was chargesheeted. Subsequently, a Domestic Enquiry was held and he was dismissed from service w.e.f. 25/26.10.1994. Meanwhile, it was reported that the concerned employee expired on 28.10.1994, before communication of the order of dismissal. Waiving the order of dismissal, the Competent Authority was pleased to process the claim for employment of the dependant son. Ranjit Kumar Mahato submitted an application claiming employment against the death of his father on 25.06.1997 after lapse of approximate three years. Necessary formalities were complied at Colliery and Area level, IME of the claimant was held and the proposal for employment was forwarded to the ECL Headquarters for scrutiny and approval of the Competent Authority. The employment proposal was returned to Satgram Area Office due to some irregularity and discrepancies observed at ECL Headquarters. There was mismatch in the name of the claimant in the application and his educational certificates. The question of genuineness of relationship cropped up. Fresh declaration of witness and Indemnity Bond were sought for. Police verification was done at his native place. Explanation was sought for regarding reasons for delay in submitting the application. Letter bearing Ref. No. ECL/CMD/C-6B/EMPL/WD-2230/11/387 dated 05.08.2011 was issued by the Manager (Personnel)/Empl. WD, ECL Headquarters, returning the proposal for employment, pointing out some discrepancies and sought for clarification as well as necessary documents. The unit management issued a letter dated 17.12.2011 to Ranjit Kumar Mahato @ Ranjit Kumar, seeking clarification about the discrepancies pointed out by the ECL Headquarters and advised him to submit relevant documents. It is the case of the management that instead of forwarding necessary documents the claimant initiated the Industrial Dispute before this Tribunal. It is contended that the management committed no illegality or impropriety in denying the proposal for employment and the Industrial Dispute is fit to be dismissed.

7. In support of their case management examined Mr. Amit Kumar, Manager (Personnel) as Management Witness – 1. Affidavit-in-chief has been filed wherein it is stated that Ranjit Kumar Mahato, son of Ram Chandra Mahato submitted application for claim of employment on 25.06.1997, claiming employment after lapse of three years from the death of the employee. The proposal for employment was returned to Satgram Area Office due to some irregularities and discrepancies over mismatch in the name of the claimant in his educational certificate and genuineness of relationship. Further particulars and explanations were sought for from the claimant but Ranjit Kumar Mahato, the claimant neither submitted the requisite documents nor sent any information. The management produced copies of letter dated 05.08.2011, which is marked as Exhibit M-1 and letter dated 30.11.2011 / 17.12.2011 addressed to Ranjit Kumar Mahato asking him to submit certain documents as Exhibit M-2.

8. In course of cross-examination the management witness denied that Siya Devi submitted applications on 13.12.1994 and 31.10.1994, seeking employment for her son Ranjit Kumar Mahato. The witness admitted that IME and screening of Ranjit Kumar Mahato were held. He also admitted that some queries were made but the concerned applicant did not comply the same. The witness admitted letter dated 05.11.2018 issued by the Senior Manager (Personnel), Jemehari Colliery addressed to the Senior Manager (Personnel)/IC, Satgram Area, whereby clarification and documents along with original file were forwarded to the Area for needful action. The witness admitted that no communication was made to the person regarding the reason for refusal of the proposal for employment.

9. Mr. Rakesh Kumar, Union representative arguing the case on behalf of the dependant son of Ram Chandra Mahato submitted that the workman died in harness on 28.10.1994 at the age of 49 years, leaving behind his wife, three sons and one daughter. The Service Record Excerpt has been produced as Exhibit W-2. It is submitted by the union representative that immediately after the death of the workman, Siya Devi submitted two applications dated 13.12.1994 and 31.10.1994, claiming employment for her elder son, Ranjit Kumar Mahato produced as Exhibit W-3 and W-4. The employment process was initiated on the basis of letter dated 13.05.1997 (Exhibit W-5). Thereafter, Ranjit Kumar Mahato was referred to Satgram Area Hospital by letter dated 27.09.1997 (Exhibit W-6) for his medical examination. The management issued a letter dated 31.03.1998 addressed to Ranjit Kumar Mahato asking him to produce his original educational certificate before Mr. T. B. Raju, Deputy Personnel Manager, Satgram Area. Copy of the letter has been produced as Exhibit W-7. Mr. Rakesh Kumar argued that in the school certificate the name of Ranjit Kumar Mahato was recorded as Ranjit Kumar and the name of his father was recorded as Ram Chandra Singh. Due to discrepancies the management issued a letter bearing Ref. No. SAT/PER/EMPL/6026/98/4037 dated 24/28.04.1998 (Exhibit W-8) to the Agent, Jemehari (R) Colliery, seeking clarification and re-examination of relationship and to send a report. Mr. Rakesh Kumar argued that the dependant son has submitted all his documents before the management for dispelling the doubt regarding the identity but till date no employment has been provided

to the dependant son. Referring to Exhibit W-13 a letter dated 05.11.2018 issued by the Senior Manager (Personnel)/IC, Satgram Area, it is submitted that clarification and documents along with original file of Ranjit Kumar Mahato were sent for necessary action. The claimant waited for several years, issued reminder to the management for his employment, the same have been marked as Exhibit W-14 collectively. It is urged that even after satisfying necessary queries and producing documents there is inordinate delay on the part of the management for not finalizing the claim for employment.

10. Mr. P. K. Das, learned advocate for the management drew my attention to Exhibit M-1, a letter dated 05.08.2011, issued by the Manager (Personnel)/Empl. WD, addressed to the Chief Manager (Personnel), Satgram Area, wherein it is stated that in the educational certificate which has been enclosed in the file name of the candidate has been recorded as Ranjit Kumar, son of Ram Chandra Singh but the claimant submitted his application as Ranjit Kumar Mahato, son of Ram Chandra Mahato. It is argued that such discrepancy could not be reconciled by the claimant. The claimant was therefore requested to submit some documents as stated in letter dated 30.11.2011 / 17.12.2011 (Exhibit M-2), but till date no such compliance has been made.

11. Considered the argument advanced by the union representative and learned advocate for the management, in the back drop of the facts and circumstances of this case. The rights and liabilities in respect of the Industrial Dispute arose on the death of an employee in harness and a claim made by the dependant son for employment. According to the provisions in Clause 9.3.2. of NCWA-V, one dependant of the workman, who died while in service is entitled to employment. The conditions for employment laid down in Clause 9.3.4 is that the dependants to be considered for employment should be physically fit and suitable for employment and aged not more than 35 years on the date of submitting his claim for employment. In the instant case the union has produced copies of two letters as Exhibit W-2 and W-3, purportedly submitted in the year 1994, claiming employment for Ranjit Kumar Mahato. Management has denied receipt of the letters. However, it is admitted that the first application was submitted by the claimant in the year 1997, nearly three years after the death of the workman. Be that as it may, it appears from Exhibit W-5, a letter dated 13.05.1997 that after several discussion with union regarding employment to the dependant of the ex-workman, the General Manager (Personnel), ECL, Sanctoria had advised to process the employment proposal of the dependant of Ram Chandra Mahato, who expired on 28.10.1994. This decision on the part of management of ECL amounts to waiver of delay on the part of the claimant in filing the application. It is gathered from Exhibit W-6 and W-7 that the process of employment was initiated and the claimant was referred for his medical examination at Sanctoria Area Hospital and was asked to produce original school certificate. Thereafter, some discrepancies arose regarding the name of the claimant which appeared as Ranjit Kumar in his school certificate and his father's name appeared as Ram Chandra Singh instead of Ram Chandra Mahato. In course of evidence the School Certificate has not been produced for consideration. It looms large from such record is that there was some error and discrepancy in the name of the claimant appearing in the Service of Ram Chandra Mahato and School Certificate of the claimant. From examination-in-chief of Management Witness -1, it appears in paragraph – 7 that the employment proposal was returned back to Satgram Area Office several times due to some irregularities / discrepancies found during scrutiny at ECL Headquarters and due to mismatch in the name of the claimant, appearing in the educational certificates. In order to ascertain the identity of the claimant, the management had sought for Police Verification Report from his native place but did not come out fairly consider the report, which was submitted by the police. There is no specific case of the management that Police Verification Report is not correct or Ranjit Kumar and Ranjit Kumar Mahato are not the same person or the claimant is not the son of Ram Chandra Mahato. The management of the ECL is therefore duty bound to consider the identity of the petitioner claimant and genuineness of the relationship between the claimant and the deceased employee without any further delay and conclusively determine the right to employment as per NCWA. In my considered view, though there has been substantial delay in finalizing the process for employment, it appears from letter dated 05.11.2018 (Exhibit W-13) that the management has misplaced the file of Ranjit Kumar Mahato, sometime in the year 2012. The delay is therefore attributable to the inaction and negligence on the part of the management and the dependant son cannot suffer due to inaction and negligence of the management. The management is duty bound to comply the terms of NCWA instead of delaying the process to frustrate the claim for employment. The Industrial Dispute is accordingly decided in favour of the union on contest against Management. The management of ECL is directed to consider the proposal for employment of Ranjit Kumar @ Ranjit Kumar Mahato within a period of two (2) months from the date of communication of the Award.

Hence,

ORDERED

that the Industrial Dispute is allowed on contest in favour of the union and against the management of Modern Satgram Colliery under Satgram Area of Eastern Coalfields Limited. The management of employer company is directed to process the prayer for employment within two (2) months from the date of communication of the Award and inform the finality of the decision to Ranjit Kumar Mahato, the claimant within fifteen (15) days. Let an award be drawn up in light of my above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 7 जनवरी, 2025

का.आ. 2321.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में दलित; l j dkj vk\$| kfxd vf/kdj.k - सह - Je U; k; ky; , आसनसोल के पंचाट (सन्दर्भ संख्या 10/2020) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30@12@2024 को प्राप्त हुआ था।

[सं. एल - 22012-3-2020-आईआर (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 7th January, 2025

S.O. 2321.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference. I.D. No. 10/2020** of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **30/12/2024**.

[No. L-22012-3-2020-IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

REFERENCE CASE NO. 10 OF 2020

PARTIES: Jiban Kumar Jyoti
Vs.
Management of Central Kajora Colliery of ECL

REPRESENTATIVES:

For the Union/Workman: Mr. Jiban Kumar Jyoti (in person).
For the Management of ECL: Mr. P. K. Das, Advocate.

INDUSTRY: Coal
STATE: West Bengal.
Dated: 29.11.2024

AWARD

In exercise of powers conferred under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/3/2020-IR(CM-II)** dated 06.02.2020 has been pleased to refer the following dispute between the employer, that is the Management of Central Kajora Colliery under Kajora Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

SCHEDULE

“ Whether the demand of Koyala Khadan Shramik Congress (INTTUC), Burdwan to regularize service of Sri Jiban Kumar Jyoti, SDL Operator, as Pump Operator in Central Kajora Colliery, Kajora Area of M/s. E.C.Ltd. after a mine accident is appropriate and justified? If yes, to what relief Sri Jiban Kumar Jyoti, SDL Operator is entitled to? ”

1. On receiving Order **No. L-22012/3/2020-IR(CM-II)** dated 06.02.2020 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 10 of 2020** was registered on 24.02.2020 and Notice were issued to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Mr. P. K. Das, learned advocate for the management of Eastern Coalfields Limited is present. The case is fixed up today for appearance and evidence of workman witness. On call Jiban Kumar Jyoti, aggrieved workman, who sought for regularization of service as Pump Operator in Central Kajora colliery, has appeared and submitted that on

28.08.2024 he filed an application before this Tribunal, praying for passing a No Dispute Award on the ground that due to personal reasons he does not want to proceed further and want to withdraw the same. Copy of application for withdrawing the Reference case has been served upon the learned advocate for the management.

3. After registration of this case, parties filed their respective written statements and the case was fixed up for evidence. At this stage workman filed the instant application to withdraw the referred Industrial Dispute which was raised at his instance. Considered the same. Prayer is allowed. Industrial Dispute raised by Jiban Kumar Jyoti for his regularization as Pump Operator in Central Kajora Colliery under Kajora Area of Eastern Coalfields Limited is allowed to be withdrawn. Industrial Dispute is accordingly disposed of and a No Dispute Award be drawn up.

Hence,

ORDERED

that a No Dispute Award be drawn up in the above Reference case. The Reference case is withdrawn. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 7 जनवरी, 2025

का.आ. 2322.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में दलित; l j dkj vks| kfxd vf/kdj .k - सह - Je ll; k; ky; , आसनसोल के पंचाट (सन्दर्भ संख्या 02/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30@12@2024 को प्राप्त हुआ था।

[सं. एल - 22013-01-2025-आईआर (सीएम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 7th January, 2025

S.O. 2322.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Reference. I.D. No. 02/2018** of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **30/12/2024**.

[No. L-22013-01-2025-IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

PRESENT: Shri Ananda Kumar Mukherjee,
Presiding Officer,
C.G.I.T-cum-L.C., Asansol.

APPLICATION NO. 02 OF 2018

PARTIES: Akash Gantait
(represented by Koyala Mazdoor Congress)
Vs.
Management of Parbelia Colliery of ECL.

REPRESENTATIVES:

For the Union/Workman: Mr. Pradip Kumar Goswami, President, Advocate.
For the Management of ECL: Mr. P. K. Das, Advocate.

INDUSTRY: Coal.

STATE: West Bengal.

Dated: 20.11.2024

AWARD

1. This Industrial Dispute has been raised by Koyala Mazdoor Congress, a recognized trade union on failure of conciliation proceeding under section 2A of the Industrial Disputes Act before the Assistant Labour Commissioner (Central), Asansol. The concerned union filed an application under section 2A(2) of the Industrial Disputes (Amendment) Act, 2010 along with a certificate u/s 12(4) of I.D. Act dated 15.05.2017 issued by the Assistant Labour Commissioner (Central), Asansol from the purpose of enabling the union to approach the CGIT-cum-Labour Court, Asansol for adjudication of the dispute.

2. The union filed their Application on 05.03.2018 on the basis of which the instant case has been registered. Fact of case in nutshell is that Akash Gantait, UG Loader bearing U.M. No. 124245 was a permanent employee at Parabelia Colliery, ECL. Due to serious illness, he could not attend duty. After he was declared medically fit, he went to join his duty but the management of the company issued Charge Sheet against him and after a domestic enquiry dismissed him from the service of the company on 11.07.2016. It is the case of the workman that he submitted medical certificate in support of his illness, but the management did not consider his case and dismissed him from service ignoring the principle of natural justice. It is further submitted that the alleged misconduct of absence from duty was beyond his control as he was suffering from illness and the punishment imposed against him is disproportionate to his alleged misconduct. The workman prayed for his reinstatement in service and payment of back wages.

3. Management of the Parabelia Colliery contested the case by filing their written statement on 01.11.2021 through the Chief Manager (Mining), Parabelia Colliery. The specific case of the management is that the workman was charge sheeted for his unauthorized absence from duty from 18.09.2014 to 01.04.2015. The workman failed to submit any satisfactory reply to the Charge Sheet. As a result, a domestic enquiry was conducted by Enquiry Officer and the workman participated in the enquiry along with co-worker. The Enquiry Officer submitted his Report and the charge framed against the workman was proved beyond any doubt. Management inter alia stated that the attendance of the workman in the preceding three years was very poor. Akash Gantait attended his duty for 72 days in 2012, 31 days in 2013 and 47 days in 2014. After completion of the enquiry, a second Show Cause Notice was issued to the workman by the General Manager, Sodepur Area dated 07/09.01.2016 through registered post and the ex-workman submitted his reply to second Show Cause Notice which was again found unsatisfactory. After careful consideration of the Charge Sheet, Enquiry Proceedings and other relevant papers, the competent authority dismissed the workman from service by letter dated 09/11.07.2016. According to the management, the ex-workman did not send any information about his illness. It is urged that there was no illegality on the part of the management in dismissing the charged employee from service. It is asserted that the management lost their confidence in the ex-workman and there is no scope for his reinstatement in service. It is submitted that the workman is not entitled to reinstatement nor payment of back wages and the Application is liable to be dismissed.

4. On the basis of pleading of both parties, the following issue was framed:

ISSUE

1. "Whether dismissal of Akash Gantait, Ex-Loader, UM No. 124245 by the management of Parbelia colliery is legally tenable and justified? If not, what relief the workman/dependent of workman is entitled to?"

5. In order to substantiate their case, the union examined Akash Gantait as WW-1. Affidavit-in-chief of Akash Gantait was filed on 26.09.2022. It is stated by the workman that Charge Sheet No. 396 dated 02.04.2015 was issued to him for unauthorized and habitual absence from duty wherein it was stated that he was absent from duty from 18.09.2014 to 01.04.2015. He further stated that he was unable to attend his duty due to illness and same was informed to the management from time to time through his letter dated 18.09.2014, 15.10.2014, 11.12.2014, 23.01.2015, 18.02.2015, 25.07.2015 and 22.06.2015 along with medical certificates. The workman admitted that a second Show Cause Notice was issued to him and he submitted his reply on 18.03.2016. According to him, apart from Charge Sheet No. 396, he was never charge sheeted on earlier occasion and was not cautioned for his absence. It is stated that his wife died in the year 2001 and sometimes he absented from his duty to attend his five years old child. In his evidence-in-chief, the workman witness stated that he was suffering from typhoid during his absence from duty but was unable to state if any test for diagnosis of Typhoid was conducted or not. The medical certificate issued by Dr. M.P. Burnwal and Dr. S.K. Pattanayak, homeopathic doctors has been marked as Exhibit W-6 and Exhibit W-6/1. Copies of six letters for intimation to the management have been marked as Exhibit W-7 to Exhibit W-7/5. The workman admitted that he was absent for five years and in the course of cross-examination, the witness deposed that the Charge Sheet was issued to him for his absence from duty from 18.09.2014 till 01.04.2015. When asked about the number of days he attended duty in the year 2012, he did not deny that he attended only on 72 days and went ahead to admit that he attended duty only on 31 days in 2013 and 47 days in 2014. The witness volunteered that he was absent for most of the time to look after his 10 months old daughter as his wife had passed away at the relevant time. It is also gathered from his cross-examination that he had not informed the management that he was absent from duty in order to look after his new born child as his wife had died. No document is produced to show that he communicated to the management about reason of his absence i.e. taking care of his minor child. The witness participated in the departmental enquiry but did not examine any doctor who treated him.

6. The workman has produced the following documents in support of his case:

- (i) Copy of Charge Sheet dated 02.04.2015 is produced as Exhibit W-1.
- (ii) Reply submitted by the workman on the right side of the Charge Sheet, as Exhibit W-2.
- (iii) Copy of second Show Cause Notice dated 07/09.01.2016, as Exhibit W-3.
- (iv) Copy of reply against second Show Cause Notice, as Exhibit W-4.
- (v) Further reply to the second Show Cause Notice, as Exhibit W-5.
- (vi) Copy of medical certificates issued by Dr. M.P. Burnwal and Dr. S.K. Pattanayak, as Exhibit W-6 and Exhibit W-6/1 respectively.
- (vii) Copy of letter issued by the workman intimating his illness, as Exhibit W-7 to Exhibit W-7/5.

7. Mr. Chinmoy Senapati, management witness filed his affidavit-in-chief on 30.01.2023 and has been examined as MW-1. In his affidavit-in-chief, he stated that the workman was charge sheeted on 02.04.2015 by the management for his unauthorized absence from duty from 18.09.2014 and that he was a habitual absentee and for this act of misconduct a departmental enquiry was initiated. The workman participated in the enquiry. Reasonable opportunity was given to the workman to defend himself following the principles of natural justice. The Enquiry Officer after conclusion of his Enquiry Proceeding submitted his Enquiry Report, holding the workman guilty of charge. A second Show Cause Notice was issued to the workman and he submitted his reply against the findings. The management found no extenuating circumstances for absence of the workman from duty on proper grounds and dismissed him from service. In course of his evidence, the management produced following documents:

- (i) A copy Charge Sheet dated 02.04.2015 is produced as Exhibit M-1.
- (ii) Reply submitted by the workman on the right side of the Charge Sheet, as Exhibit M-2.
- (iii) Copy of letter dated 04.09.2015 appointing the Enquiry Officer, as Exhibit M-3.
- (iv) Notice of Enquiry dated 09.09.2015, as Exhibit M-4.
- (v) Copy of Enquiry Proceeding in four pages is collectively marked as Exhibit M-5.
- (vi) Copy of Enquiry Report and findings, as Exhibit M-6.
- (vii) Copy of second Show Cause Notice dated 07/09.01.2016, as Exhibit M-7.
- (viii) Reply to the second Show Cause Notice, as Exhibit M-8.
- (ix) Further reply to the second Show Cause Notice, as Exhibit M-9.
- (x) Order of dismissal dated 09/11.07.2016 issued by the General Manager as Exhibit M-10.

8. In his cross-examination, the management witness deposed that on earlier occasions Charge Sheet was issued to the workman for his absence from duty for the years 2012, 2013 and 2014. The witness further deposed that no settlement could be reached for reinstatement of the workman and denied the suggestion that the enquiry was not conducted in a proper manner or that dismissal of the workman was illegal and unjust.

9. The short question for consideration is whether the dismissal of the workman from service was just and proper and what relief the workman is entitled to?

10. Mr. Pradip Kumar Goswami, learned advocate advancing the argument on behalf of the union submitted that the workman Akash Gantait expired on 25.06.2023 and his legal heirs namely Jharna Gantait, Paltan Gantait and Rikta Gantait have been substituted in his place and are representing the interest of the deceased workman. It is argued that the workman is not guilty of unauthorized absence as he had kept the management informed about the reason of his absence. It is submitted that the workman was suffering from various ailments like typhoid and jaundice for which he was unable to attend his duty. It is contended that the workman cannot be responsible for his illness which was beyond his control. Learned advocate drew my attention to Exhibit W-6 and Exhibit W-6/1, Medical Certificates issued by Dr. S.K. Pattanayak dated 15.02.2015 and the one issued by Dr. M.P. Burnwal dated 04.08.2015. Learned advocate referred to the Report of the Enquiry Proceeding (Exhibit M-5) and argued that the management witness did not produce the copy of any earlier Charge Sheet or Enquiry Proceeding to prove that the workman was a habitual absentee in 2012, 2013, 2014 and 2015. It is also contended that the Enquiry Officer did not consider the Medical Certificates issued by the doctors which would prove that the workman was under their medical treatment during the period of his absence. It is argued that punishment of dismissal from service was disproportionate and the same not being tenable under law is liable to be set aside. Learned advocate argued that since the workman has expired during pendency of the Industrial Dispute, his legal heirs are entitled to the reliefs of back wages.

11. Mr. P.K. Das, learned advocate for the management of ECL strongly contended that the charges of habitual absence and unauthorized absence have been well established against the charged person based upon evidence

adduced by the management representatives who have not been cross-examined by the workman or his representative. It is submitted that in the Domestic Enquiry the workman examined himself but he has not been able to produce any prescription from the doctor. Learned advocate referred to the statement of Akash Gantait where he deposed before the Enquiry Officer that he has been absenting from his duty with effect from 18.09.2014 due to his illness. He stated that he was suffering from typhoid, blood dysentery and other ailments. He produced the medical certificate dated 04.08.2015 and 15.02.2015. He also deposed that he was mentally disturbed due to his family problems. Learned advocate argued that the workman in his application before the Tribunal did not disclose the nature of his illness or doctors from whom he received treatment. In his affidavit-in-chief, the workman also did not disclose the nature of his illness but stated that due to the death of his wife, he had to look after his five years old child for which he absented from duty. In respect of the two medical documents filed on behalf of the workman, it is submitted that the purported certificate issued by Dr. M.P. Burnwal dated 04.08.2015 (Exhibit W-6) and Dr. S.K. Pattanayak dated 15.02.2015 (Exhibit W-6/1) are fabricated documents. In the Exhibit W-6/1, it has been certified that the workman was suffering from respiratory cough for which he was under his treatment from 17.09.2014 to 15.02.2015. It is argued that the said certificate neither bears the signature of patient nor his LTI has been identified by the doctor. Referring to Exhibit W-6, learned advocate argued that even in the said certificate, neither the signature nor LTI of the patient was identified and the workman was said to be suffering from typhoid and jaundice from 17.03.2015 to 14.08.2016. It is argued that the workman did not examine the doctors to verify the truth in the certificates and has failed to produce any prescription during his long period of illness. It is argued that the certificates are false. Learned advocate argued that the Enquiry Officer provided ample opportunity to the workman to defend his case and the principle of natural justice were observed by the Enquiry Officer. It is urged that the misconduct of habitual absence have been proved beyond doubt and this has disrupted the work of the management and they have lost confidence in the workman and all procedures for dismissal of the workman were complied. It is further argued that the workman has not rendered any service since his dismissal and he is not entitled to any back wage.

12. I have heard the arguments advanced by the learned advocates of the respected parties and considering the pleadings and evidence adduced by both parties. The workman was admittedly absent from his duty from 18.09.2014 till issuance of Charge Sheet on 02.04.2015. He neither disclose the nature of his ailment in the Application filed nor in his affidavit-in-chief. For the first time in his evidence-in-chief, he stated that he was suffering from typhoid but was unable to state if any test was conducted to diagnose the disease. In course of his cross-examination, the workman admitted that he attended his duty for 31 days in 2013 and 47 days in 2014. Therefore, the charge of habitual absence from duty stands proved by the management. The witness volunteered in his cross-examination that he was absent in order to take care of his minor daughter after the death of his wife. In paragraph 10 of his affidavit-in-chief, the workman stated that his wife Santa Gantait died in the year 2001. Therefore, the statement of remaining absent from duty for taking care of his minor daughter is absolutely false. The medical certificate (Exhibit W-6) produced by the workman is dated 04.08.2015 and the Charge Sheet was issued on 02.04.2015. This implies that the medical certificate was procured by the workman for meeting the charge relating to his long absence from 18.09.2014. No medical document or medical prescription for the period from 18.09.2014 has been produced by the workman to establish his claim of suffering from illness. The medical certificates (Exhibit W-6 and W-6/1) are not trustworthy as they do not bear the signature of the patient and were issued to suit the purpose of the absenting workman. Some letters have been produced by the workman as Exhibit W-7 to Exhibit W-7/5 to prove that he had been informing the management of Parbelia Colliery of his absence due to illness from time to time. In all his applications, he has stated that he was suffering from hepatitis but he has not stated anything about his suffering from jaundice or typhoid. Therefore, the letters said to have been submitted by the workman are not consistent with the two medical certificates (Exhibit W-6 and Exhibit W-6/1). I am unable to place reliance upon the documents produced as medical certificates and letters disclosing the reason of absence of the workman from duty.

13. On perusal of the Enquiry Proceeding (Exhibit M-5) I find that Indradeo Paswan, MW-1 produced Form 'G' and 'H' register and stated that in the preceding three years, the workman's attendance was 31 days in 2013, 47 days in 2014 and Nil in 2015. The MW-1 was not cross-examined by the charged employee. The billing register was produced by Ajit Kabi, MW-2 who stated that no wage bill was paid to the workman. Subir Sinha, MW-3 who produced the Sick Register admitted that no sick wages was given to Akash Gantait. The evidence of management witness remained unchallenged. Akash Gantait in his evidence stated that he was suffering from typhoid, blood dysentery and other illness. In none of the letters purportedly submitted before the management (Exhibit W-7 to Exhibit W-7/5), the workman mentioned his suffering from illness like typhoid or blood dysentery. Considering all these materials in this reference case it appears that the workman has not been able to rebut the findings of the Enquiry Officer. A second Show Cause Notice was issued to the workman (Exhibit M-7). The workman submitted his reply to second Show Cause Notice (Exhibit M-8 and Exhibit M-9) where he has stated that he was absent due to serious illness. The competent authority having considered all materials has dismissed the workman from his service with effect from 11.07.2016. The Enquiry Proceeding has been held in a fair manner observing the principle of natural justice. I therefore find no extenuating circumstance in favour of dismissed workman and there is nothing on record to show that the Enquiry Proceeding or order of dismissal of the workman was arbitrary or unjust. The management had extended opportunities to the workman and had accommodated his previous absences but the same continued unabated. The purpose and object of employment was disrupted and the management appears to have lost confidence in the workman. The workman has expired during pendency of this Industrial Dispute. There is no

material in his favour to interfere with the order of dismissal. Accordingly, the legal heirs are not entitled to get any relief in this case. The Industrial Dispute raised by the union on behalf of the workman is accordingly dismissed on contest.

Hence,

ORDERED

that the Application under sub-section (2) and (3) of Section 2A of Industrial Disputes (Amendment) Act, 2010 is dismissed on contest. The order of dismissal of Akash Gantait impugned in this Application calls for no interference. Let an Award be drawn up in light of the above findings. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 7 जनवरी, 2025

का.आ. 2323.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार परियोजना निदेशक, भारतीय राष्ट्रीय राजमार्ग प्राधिकरण, परियोजना कार्यान्वयन इकाई, नयापल्ली, इकाई - VIII, भुवनेश्वर (उड़ीसा); प्रमुख, मेसर्स सिम्प्लेक्स इन्फ्रास्ट्रक्चर लिमिटेड, नौहट, सदर, कटक, के प्रबंधन के संबद्ध नियोजकों और श्री मनोरंजन महाराणा एवं 26 अन्य, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, [, o a J e U ; k ; ky ;] भुवनेश्वर पंचाट (संदर्भ संख्या 17/2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.01.2025 को प्राप्त हुआ था।

[सं. एल - 42012-200-2018-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 7th January, 2025

S.O. 2323.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 17/2019**) of the **Central Government Industrial Tribunal cum Labour-Bhubaneswar**, as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Project Director, National Highways Authority of India, Project Implementation Unit, Nayapalli, Unit - VIII, Bhubaneswar (Orissa); The Head, M/s. Simplex Infrastructure Ltd., Nauhat, Sadar, Cuttack, and Shri Manoranjan Maharana & 26 Others, Worker**, which was received along with soft copy of the award by the Central Government on 07.01.2025.

[No. L-42012-200-2018-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 17/2019

Date of Passing Order – 30th September, 2024

Between:

1. The Head, M/s. Simplex Infrastructure Ltd.,
At. Nauhat, Po. Telengapentha, P.S. Sadar, Cuttack,
Dist. Cuttack – 754 001.
2. The Project Director,
National Highways Authority of India,

Project Implementation Unit, 1st Floor, SETU Bhawan,
Nayapalli, Unit – VIII, Bhubaneswar (Orissa) – 751 012.

... 1st Party-Managements.

(And)

Sri Manoranjan Maharana & 26 Others,
At. Nachhipur, Badheisahi, P.O. Telengapentha,
P.S. Sadar, Cuttack, Dist. Cuttack – 754 001.

... 2nd Party-Workman.

Appearances:

None. ... For the 1st Party-Managements.

None. ... For the 2nd Party-Workman.

ORDER

In the present case, a reference was received from the Deputy Director to the Government of India, Ministry of Labour New Delhi vide order No. L-42012/200/2018 – IR(DU), dated 31.01.2019 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 for adjudication of a dispute, under the following schedule:-

“Whether the demand of Sh. Manoranjan Maharana & 16 others (list Attached) with period of employment who have rendered around 04 years or more of service and were terminated by the management of M/s. Simplex Infrastructure Ltd., Contractor of National Highway Authority of India w.e.f. 29.05.2018 for retrenchment compensation as per provisions of law is legally tenable and justified? If not, to what relief the said workmen are entitled?”

2. In the reference order, the Deputy Director, Ministry of Labour, New Delhi commanded the parties raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to each one of the opposite parties involved in the dispute.

3. Despite directions so given, no statement of claim is received from the 2nd party-workman.

4. On receipt of the above reference, notices were sent to the 2nd Party-Workman on 05.04.2019, 11.06.2019, 29.08.2019, 22.11.2019, 24.02.2020 and lastly on dated 05.09.2023 for appearance and for filing of statement of claim. Neither the postal article sent to the 2nd Party-Workman, referred to above, was received back nor was it observed by the Tribunal that postal services remained unserved in the period, referred to above. Therefore, every presumption lies in favour of the fact that the above notices were served upon the 2nd Party-Workman. Despite service of the notice, the 2nd Party-Workman opted to abstain away from the proceedings. No claim statement was filed on its behalf. Thus, it is clear that the 2nd Party-Workman is not interested in adjudication of the reference on merits.

5. Since the 2nd Party-Workman has neither filed statement of claim nor has led any evidence so as to prove its cause against the Management, it is presumed that there is no claim of workman against the Management.

6. In view of such, no claim Order is passed by this Tribunal.

7. Let this order be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dictated & Corrected by me.

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 7 जनवरी, 2025

का.आ. 2324.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रबंधक, टाइम्स सिक्योरिटी सर्विसेज प्राइवेट लिमिटेड, नयापल्ली, खोरधा, भुवनेश्वर, ओडिशा, के प्रबंधन के संबंध में नियोजकों और श्री प्रियव्रत लेका, कामगार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, [०८ जे एल; क; क्य;] भुवनेश्वर पंचाट (संदर्भ संख्या 44/2018) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.01.2025 को प्राप्त हुआ था।

[सं. एल – 42025-07-2024-174-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 7th January, 2025

S.O. 2324.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 44/2018**) of the **Central Government Industrial Tribunal cum Labour-Bhubaneswar**, as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Manager, Times Security Services Pvt. Ltd., Nayapalli, Khordha, Bhubaneswar, Odisha, and Shri Priyabrata Lenka**, Worker, which was received along with soft copy of the award by the Central Government on 07.01.2025.

[No. L-42025-07-2024-174-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 44/2018

Date of Passing Order – 30th August, 2024

Between :-

Manager, Times Security Services Pvt. Ltd.,
Plot No. N-5/496, IRC Village, Nayapalli,
Bhubaneswar – 751 015, Dist. Khordha, Odisha.
... 1st Party-Management.
(And)
PriyabrataLenka, S/o. RajkishroreLenka,
R/o. Village, Gothada, Po/Ps. Naugaonhat,
Dist. Jagatsinghpur, Pin 754 113, Odisha.
... Applicant-Workman.

Appearances:

None. ... For the 1st Party-Management.
None. ... For the Applicant-Workman.

ORDER

This is an application of applicant-workman filed under section 2-A(2) of the Industrial Disputes Act (herein-after referred as an “Act”).

The case of the applicant-workman as per his statement of claim is that he was working as Security Supervisor under the Management. All of a sudden and without any reason he was not provided his duty by the 1st Party-Management for which the Union representing the workman has given a representation to the Chief Operational Manager, TMILL, Paradip with a request to provide duty to the workman, but his representation was not considered and he was terminated from service by the Management. He was being paid less minimum wages than the wages paid to the employees working for similar work at the same work place. Further the 1st Party-Management is always irregular in making payment of his salary in every month. Such action of the management is an unfair labour practice. He approached the Labour Enforcement Officer (Central), Paradip, but no result was yielded. Hence he has filed the present claim petition.

3. The 1st Party-Management has not appeared in spite of notice being issued to it, as such order of exparte against the Management was passed on 20.11.2018.

4. Applicant-workman is asked to prove his case and in order to prove his case he has filed his own affidavit evidence on dated 13.03.2019. There after the 2nd party-workman remained absent in all the dates. However, despite providing a number of opportunities, applicant-workman has not turned up to prove his claim. As the applicant-workman has not turned up for proving his case, his claim stands dismissed.

5. Award is passed accordingly.

6. A copy of this Award is sent to the appropriate government for notification as required under section 17 of the I.D. Act, 1947. File is consigned to record room.

Dictated & Corrected by me.

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 7 जनवरी, 2025

का.आ. 2325.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निदेशक, पूर्वी क्षेत्र के लिए जल प्रौद्योगिकी केंद्र, चंद्रशेखरपुर, भुवनेश्वर (उड़ीसा), के प्रबंधन के संबंध में नियोजकों और श्री शंकर सैन साहू, कामगार, के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, [No. L-42012-62-2008-IR (DU)] भुवनेश्वर पंचाट(संदर्भ संख्या 83/2008) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.01.2025 को प्राप्त हुआ था।

[सं. एल – 42012-62-2008-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 7th January, 2025

S.O. 2325.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 83/2008**) of the **Central Government Industrial Tribunal cum Labour-Bhubaneswar**, as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Director, Water Technology Centre for Eastern Region Chandrasekharapur, Bhubaneswar (Orissa), and Shri Shankar San Sahu, Worker**, which was received along with soft copy of the award by the Central Government on 07.01.2025.

[No. L-42012-62-2008 -IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 83/2008

Date of Passing Award – 30th September, 2024

Between :-

The Director,
Water Technology Centre for Eastern Region,
Chandrasekharapur, Bhubaneswar (Orissa).

... 1st Party-Management.

(And)

Sri Shankar San Sahu,
At./Po. Batto, Via Sainkul, Keonjhar.

... 2nd Party-Workman.

Appearances:

Mr. Subrat Mishra, ... For the 1st Party-
Advocate. Management.

Mr. Amar Sahoo, ... For the 2nd Party-Workman.
Advocate.

AWARD

In the present case, a reference was received from the Under Secretary to the Government of India, Ministry of Labour & Employment, New Delhi vide order No. L-42012/62/2008 – IR(DU), dated 26.11.2008 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 for adjudication of a dispute, under the following schedule:-

“Whether the action of the management of Water Technology Centre for Eastern Region, Bhubaneswar in terminating the services of Shri Sankar San Sahu, Field Assistant w.e.f. 24/05/2004 is legal and justified? If not, what relief the workman is entitled to?”

2. The case of the 2nd party-workman as per his statement of claim is as follows:-

That, he was engaged initially as a Store Keeper in the month of March, 1990 and worked under Farm Manager WTCER, which is under the administrative control of Director WTCER. He continued to work on the said post till 13th January, 1993 and after that he was forced to work on job contract basis by the Management till his termination/retrenchment from the said job in the month of March, 2003. In the mean-time he had submitted representation before the Management for his regularization of his service on various occasions since 1993 but the Management did not consider his case. After that he had filed an application before the Assistant Labour Commissioner (Central), Bhubaneswar on 09.08.2002. Subsequently a conciliation proceeding between him and the Management was taken up in which it was agreed by both the parties to close the matter. However, the Management instead of giving him regular appointment as agreed in the conciliation proceeding dated 18.12.2002, terminated him from his job after three months of conciliation proceedings and subsequently the workman had filed an application before the Assistant Labour Commissioner (Central), Bhubaneswar for redressal of his grievance. A fresh conciliation proceeding was initiated in which both the parties agreed and the Management agreed to re-engage him with effect from 24.05.2004, but the Management had neither engaged him nor submitted any compliance report. Thereafter he filed Writ Petition No. 11187/2004 before the Hon'ble High Court of Orissa and the said case was disposed of on 11.12.2007 with direction to approach the proper forum under the Industrial Disputes Act. Subsequently he filed application before the Assistant Labour Commissioner (Central), Bhubaneswar and conciliation proceeding initiated ended in failure and subsequently this reference was made. He had worked since 1990 to 2002 under the 1st Party-Management, but without any notice his service was terminated, so the action of the 1st Party-Management was arbitrary, malafide and without any application of mind.

A prayer has been made to answer the reference in his favour.

3. On the other hand it is the case of the 1st Party-Management is as follows:-

That, the 1st Party-Management is not an “industry” within the meaning of Section 2(J) of the Industrial Disputes Act, so the provisions of the I.D. Act cannot be extended to the present case. The concerned workman does not come under the definition of “workman” as per Section 2(s) of the Industrial Disputes Act, so he is not entitled for any relief in this case. The concerned workman had worked for some time in the year 1990 on daily wage basis, but never continued after 16.12.1990, so the alleged termination of workman by the Management on 13.01.1993 and again in March, 2003 is baseless and false as he had never worked under the administrative control of the WTCER after 16th September, 1990. The workman had never rendered continuous service under the management of WTCER since 1990 and continued till 13.01.1993 as a Store Keeper. Initially Farm operation of the management started in the year 1998 and some persons had been engaged on daily wage basis at different points of time as per requirement, but at the later stage the contract system was introduced with effect from 16.12.1990. The concern workman while working as a contract worker had approached Assistant Labour Commissioner (Central), Bhubaneswar on 09.08.2002 and during the conciliation proceeding the workman had agreed to approach the labour contractor for his engagement. The Management had never agreed during the conciliation proceeding to provide regular appointment to the workman and the Management had never re-engaged the workman for the year 2002, so the allegation on termination after three months of the conciliation proceedings is false and baseless.

The 1st Party-Management has prayed that the statement of claim of the 2nd party-workman may be dismissed as he is not entitled for any relief.

4. On the aforesaid pleadings of the parties following issues are settled for just and proper adjudication of the dispute.

ISSUES

1. Whether the action of the management of Water Technology Centre for Eastern region, Bhubaneswar in terminating the services of Sri Sankar SanSahoo, Field Assistant w.e.f. 24.05.2004 is legal & justified?
2. If not what relief the workman is entitled to?

5. In this case the concerned workman has examined only one witness. He is the disputant himself. He has proved the following documents which are marked as exhibits:-

Ext.-1 is the copy of the letter dated 31.12.2002 issued by the A.L.C©, Bhubaneswar.

Ext.-2 is the copy of the orders of A.L.C©, Bhubaneswar dated 09.08.2002, 02.09.2002, 30.09.2002, 22.11.2002 and 18.12.2002.

Ext.-3 is the copy of the letter dated 03.06.2002 of A.L.C©, Bhubaneswar.

Ext.-4 is the copy of the letter dated 04.12.1990 issued by the A.L.C.(C), Bhubaneswar along with its enclosure.

Ext.-5 is the copy of the orders of the Hon'ble High Court of Orissa passed in W.P.(C) 11451/2005.

6. On the other-hand the 1st Party-Management has examined only one witness. He is M.W. No. 1Dr.Pothula Srinivasa. He has proved the following documents which are marked as exhibits.

Ext.-A series are the photocopies of the acquaintance/attendance rolls filed by the management for the period 1988 to 1990 except the period from 12.11.1989 to 22.04.1990.

Ext.-B is the copy of the ICAR's letter dated 19.09.1990.

Ext.-C series are the copies of the registration Certificate dated 04.12.1990 and letter dated 04.12.1990 and letter dated 04.12.1990 of the A.L.C.(C), Bhubaneswar.

Ext.-D is the copy of the specimen of copy of an agreement made by one labour contractor Sri Arun Kumar Baral.

Ext.-E series are the specimen copies showing marking of attendance of the contract labourers and payment by the labour contractors and bills.

FINDINGS

ISSUE No. I

7. The Tribunal thinks it proper to discuss first of all Issue No. 1 as it is the most important issue in this reference case.

It is the case of the 2nd party-workman that, he was working under the establishment of the WTCER as a Store Keeper from March, 1990 and he continued till 13.01.1993 but he was subsequently forced to work on job contract basis till his termination in the month of March, 2003. On the other it is the case of the 1st Party-Management that the concerned workman had worked for some-time in the year 1990 on daily wage basis, but never continued after 16.12.1990. It is the further case of the 1st Party-Management that after 16.12.1990 the disputant workman never worked under the administrative control of WTCER in as much as the Management has never forced him to work on contract basis at any point of time. It is also the case of the 1st Party-Management that the disputant-workman had never rendered continuous service under WTCER since March, 1990 to 13.01.1993 as a Store Keeper. However, it has been admitted by the 1st Party-Management that the 2nd party-workman while working as a contract worker had approached Assistant Labour Commissioner (Central), Bhubaneswar on 09.08.2002 and a conciliation proceeding was initiated in which it was decided that the disputant workman to approach the labour contractor for his engagement.

8. Now the Tribunal will examine the oral and documentary evidence of both the parties in the light of the pleadings of the case.

The W.W.-1 Shri Sankarsan Sahoo in his evidence has categorically deposed that he was engaged as a Store Keeper in the establishment of the Management and he joined his duties on 21.03.1990. He has also deposed that he continued to discharge his duties as a Store Keeper till 13.01.1993 on temporary basis, but on 14.01.1993, the Farm Manager compelled him to work as on job contract basis. He has also stated that he had worked for continuous period of 13 years and he was retrenched on 31.03.2003 by the Farm Manager. He has also stated that his prayer for regularization was not considered and on his application a conciliation proceeding was started which was settled before the Assistant Labour Commissioner (Central), but the Management instead of regularizing him, terminated him from service on 31.03.2003. He has proved Ext.-1 which is the copy of the letter dated 31.12.2002 issued by the A.L.C(C), Bhubaneswar, Ext.-2 which are the copies of the orders of A.L.C©, Bhubaneswar dated 09.08.2002, 02.09.2002, 30.09.2002, 22.11.2002 and 18.12.2002, Ext.-3 which is the copy of the letter dated 03.06.2002 of A.L.C©, Bhubaneswar, Ext.-4 which is the copy of the letter dated 04.12.1990 issued by the A.L.C.(C), Bhubaneswar along with its enclosure, Ext.-5 which is the copy of the orders of the Hon'ble High Court of Orissa passed in W.P.(C) 11451/2005.

In the cross examination he has deposed that he was removed from service in the year May, 2004, but he did not recollect the exact date of his removal. He has also deposed that he was not issued any appointment letter and he has engaged on verbal order of the Director of the Management as a casual worker as a Store Keeper. He has denied the suggestion that he was never engaged as a Store Keeper and he had worked for 53 days only in between 04.06.1990 to 26.08.1990 and similarly worked for 42 days in between 03.09.1990 to 28.10.1990. He has also denied the suggestion that he had worked under different contractors during different period and engaged under different contractors.

9. On the other-hand the Management Witness No. 1 Dr.Pothula Srinivasa has deposed that WTCER, Bhubaneswar now re-named as ICAR as a National Research Centre under ICAR having research farm at Deras and Mendhasal, was established during May, 1988 and Farm operation was started in November, 1988. He has also deposed that daily wagers were engaged as and when required basis in the Farm which continued till 16.12.1990. He has also deposed that the disputant workman is not covered under the definition of workman as per Section 2(s) of the I.D. Act and he had never worked for 240 days continuous and uninterrupted service. He has also stated that the disputant workman had worked some-time in the year 1990 on daily wage basis as a casual worker and never worked after 16.12.1990, so the alleged termination of the disputant as a Store Keeper by the Management on 13.3.1993 and in March, 2003 is base-less as the disputant-workman had never worked under the administrative control of the WTCER. He has also deposed that at latter stage the contract system was introduced with effect from 16.12.1990 as per instruction of the Council letter dated 19.09.1990 and the disputant workman while working as a contract worker under the contractor had approached the Assistant Labour Commissioner (Central), Bhubaneswar on 09.08.2002 as a result the conciliation proceeding started. He has also deposed that in the conciliation proceeding it was decided that the disputant workman to approach the labour contractor for his engagement and the Management had never agreed to re-engage the disputant workman with effect from 24.05.2004. He has also deposed that the payment of contract workers were made by the contractor in the presence of the Auth. Representative of the Management and the Management has no role to play regarding the termination/absorption of any contract worker as the same is under the discretion of the contractor. He has also stated that the Management has not terminated the services of the disputant workman, so the question of reinstatement does not arise.

In the cross examination he has deposed that as per the circular of Government of India issued in the month of September, 1990 no daily wager/labourer can be engaged directly by the department and engagement of such labourer are to be made through contractor and the disputant workman was never engaged directly by the Management after 16.12.1990. He has also stated that the disputant workman Sri Sankarsan Sahoo was working in our establishment through contractor after 16.12.1990, but I could not say the name of the contractor. He has also deposed that there were 12 contractors, who were issued with work order in between December, 1990 to January, 1991. He has also deposed that the Hon'ble High Court has confirmed that the order of this Tribunal by which the Management was declared as "Industry". He has also deposed that no documents showing the engagement of Sankarsan Sahoo through contractor and payment of his wages through the contractor have been filed. He has denied the suggestion that Sankarsan Sahoo was engaged as a daily wager to discharge the duty of Store Keeper from the year 1990 onwards. He has also denied the suggestion that the disputant workman had never engaged as a contract labourer.

10. Now after analysing the oral and documentary evidence of both the parties, it is quite clear that the disputant workman Sri Sankarsan Sahoo was engaged as a casual worker under the establishment of the WTCER in the year 1990. Further it is admitted by the 1st Party-Management that the disputant workman had worked under the 1st Party-Management of WTCER till 16.12.1990 and after that from 16.12.1990 he did not work under the 1st Party-Management. More-over it is an admission on the part of the 1st Party-Management that the Management of WTCER was registered under section 7 of the Contract Labour Regulation Act, on 14.12.1990 and since 16.12.1990 the contract system was introduced in the Management. However, the Management Witness No. 1 in his evidence has admitted that the disputant workman while working as contract worker under the contractor had approached the Assistant Labour Commissioner (Central), Bhubaneswar on 09.08.2002 and conciliation proceeding started. It means that the disputant workman had worked under the establishment of the Management till 09.08.2002. At this stage it is required to mention here that the Management has proved the photocopy of the agreement entered between the labour contractor Shri Arun Kumar Baral and Management which is marked as Ext.-D but on perusal of the Ext.-D it appears that this document is of the year 1994 but no document related to engagement of contractor before that has been filed. Moreover Ext.-E series, which are the attendance register of the workman are also of the period of 1995 but any attendance register before 1995 has not been filed.

It is relevant to mention here that the Management has not produced any documents to show that after 16.12.1990 when the contract system was introduced in the management of WTCER. In absence of any documents filed by the 1st Party-Management it shall be presumed that the Management have not engaged any contractor for engagement of any contract worker after 16.12.1990.

11. In view of the above discussions it is very much clear that the 1st party-Management has failed to establish that after 16.12.1990 the contract system was introduced for supply of workers and only to absolve with labour liabilities it had adopted such system, but the contract system is sham and camouflage. Moreover, the 1st Party-Management has not complied with the provisions of Section 9-A of the Industrial Disputes Act. Hence the 2nd party-workman was working as a casual worker under the Management of WTCER.

12. It is relevant to mention here that it is an admitted fact that the 2nd party-workman was engaged as a casual worker in the year 1990 under the establishment of WTCER and on 18.12.2002 disputes were raised before the Labour authorities for conciliation. It means that the concerned workman had continuously worked from the year 1990 to 2002, so it can be presumed that the 2nd party-workman had worked for more than 240 days work in a

calendar year. At this stage it is required to mention here that the Management has produced attendance sheet of the year 1995 only but it has not produced any attendance sheet of the 2nd party workman for the remaining period. In absence of such documents filed by the 1st Party-Management on the point that the workman had not completed 240 days the statement of the Management cannot be relied upon.

13. In view of such fact the Tribunal comes to the conclusion that the 2nd party-workman had continuously worked for 240 days in a calendar year as per Section 25-B of the Industrial Disputes Act.

14. It is also important to mention here that the 2nd party-workman had been disengaged/retrenched from the services without any prior notice or any retrenchment compensation. So he is entitled for compensation under section 25-F of the Industrial Disputes Act.

After considering all the facts and circumstances of the case the Tribunal comes to the conclusion that the action of the Management of WTCER in terminating the services of Sankarsan Sahoo is not legal and justified.

ISSUE NO. II

15. It has already been held by this Tribunal that the 2nd Party-workman had worked under the Management of WTCER since 1990 and after discharging of services for 22 to 24 years he had been terminated/discharged from the services without any notice or compensation even after completion of 240 days of work in a calendar year.

16. In view of the above discussion the Tribunal is inclined to grant compensation or retrenchment benefit to the 2nd party-workman. Hence, the 1st Party-Management is directed to pay a sum of Rs. 1,50,000/- as compensation to the 2nd party-workman within one month from the date of publication of the award and if the 1st Party-Management fails to make payment to the concerned workmen within the prescribed period then the concerned workman is entitled to get simple interest at the rate of 6% per annum with effect from the date of passing award.

17. This is the award of the Tribunal.

18. Office is directed to send the copy of the Award to the appropriate government for publishing in the official gazette notification.

19. Case record be consigned to record room.

Dictated & Corrected by me.

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 7 जनवरी, 2025

का.आ. 2326.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकार श्री सोमेन गोस्वामी के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (04/2020) प्रकाशित करती है।

[सं. एल – 12011-49-2009-आईआर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 7th January, 2025

S.O. 2326.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. 04/2020**) of the **Central Government Industrial Tribunal-cum-Labour Court Kolkata** as shown in the Annexure, in the industrial dispute between the management of **Central Bank of India** and **Sri Soumen Goswami**.

[No. L-12011-49-2009-IR (B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present : Justice K. D. Bhutia, Presiding Officer.

REF. NO. 04 OF 2020

Parties : Employers in relation to the management of

Central Bank of India**Vs.****Sri Soumen Goswami**

Appearance:

On behalf Central of Bank of India: Mr. Biswambhar Jha, Ld. Advocate.

On behalf of Workman Sri Soumen Goswami: Mr. Suvadip Bhattacharjee, Ld. Advocate.

Dated: 18th December, 2024**AWARD**

By order No. L-12011/49/2019 –IR(B-II) dated 27-12-2019, the Central Government, Ministry of Labour in exercise of power conferred sub-section 1(d) and sub-section 2(A) of section 10 of Industrial Dispute Act, 1947 has referred the following disputes to this Tribunal for adjudication:-

“Whether the action of the management of Central Bank of India, Regional Office (North), 33, N.S. Road, Kolkata- 700001 regarding discontinuation of the service of Shri Soumen Goswami, Personal Driver from 2017(in fact from 2007), engaged for more than 10 years and above in the post of Driver for the Executives in Central Bank of India, Regional Office (North), Kolkata is legal and/or justified? If not, what relief the workman is entitled to?”

The case of the workman in gist is that he was engaged as a Driver to drive the vehicle that was provided by the bank to its Executive Officer such as Deputy General Manager sometime in the year 2007. That though he was designated as a Personal Driver of the Executive Officer of the bank, he was paid wages through vouchers by the bank. That he was paid uniform allowance, washing allowance etc. by bank.

He had invariably requested the authority of the bank to regularise his services to the post of a permanent Driver of the bank, but the authorities of the bank refused to do. Then, all on a sudden the bank authorities prevented him to enter into the premises of the bank w.e.f. 24-04-017. He having put more than 10 years services to the bank as a Driver of the vehicle owned by the bank and he has been terminated from the service without following any due procedure laid down in the Industrial Disputes Act.

Therefore, he has prayed that his termination is void ab initio. That bank may be directed to reinstate him in the service under the bank maintaining continuity of his previous service without any break with full back wages and consequently benefits.

The bank contested the case by filing Written Statement, where it has alleged that there exists no relationship of employer and employee between it and the concerned workman and as such the present case is not maintainable. It has alleged that the case and claim of the concerned workman is speculative and fictitious. That the workman was a personal driver of an Executive Officer of the bank and who was engaged by the concerned Officer. That the concerned workman was never under the control and supervision of the bank. That he being engaged by the Executives as their personal driver is a private driver of the Executive and not that of a bank. Therefore, the question of termination of the service of said driver by the bank does not arise.

However, it is admitted that bank Executives are provided with bank cars and they are entitled to claim reimbursement of the payment made by them towards wages to the drivers engaged by them subject to the limit prescribed by bank. The drivers are engaged by the Executives through their own sources irrespective of their age, educational qualifications etc. That the pay master of the drivers is the Executive who engaged him and thus drivers work under the total control and supervision of those Executives. That the concerned workman is not under the control and supervision of the bank.

That uniform, shoes and rain coats allowances are paid to those personal drivers of those Executives only to maintain decency. Therefore, it has prayed for dismissal of the reference.

The workman in its rejoinder has reiterated what he has alleged in his original claim application.

The workman in order to prove his case and claim has examined himself as W.W.1 and who has been extensively cross examined by the bank.

The workman has produced following documents and exhibited the same:-

1. Copy of union's letter dt.24-08-2017 addressed to the Regional Labour Commissioner, in four pages as Exb.W-1.
2. Copy of union's letter dt.22-11-2017 to the bank as Exb.W-2.
3. Copy of bank's letters dt.18-03-2019 and 28-12-2017 addressed to the Assistant Labour Commissioner (C), Kolkata as Exb.W-3 and Exb.3/A.

4. Copy of union's letter dt.10-05-2019 addressed to the Asst. Labour Commissioner, as Exb.W-4.
5. Copy of bank's internal letter dt.09-12-2011 as Exb.W-5.
6. Copy of bank's letter dt.21-12-2011 addressed to Md. Rafique, Ramgya Pandey and Jagdeo Prasad as Exb.W-6, W-6/A and W-6/B.
7. Copy of bank's internal letter dt.08-10-2012 as Exb.W-7.
8. Copy of bank's circular dt.22-06-1988 as Exb.W-8.
9. Copy of bank's letter dt.27-03-1998 with regard reimbursement of cost of uniform and revision of salary of personal drivers in two pages as Exb.W-9.
10. Copy of Log Book of staff car in 54 pages as Exb.W-10.
11. Copy of 13 vouchers as Exb.W-11 (collectively).
12. Copy of insurance claim form of vehicle no. WB-06G-9338 owned by the Central Bank of India, in three pages as Exb.W-12 and
13. Copy of 5 cheques issued in favour of the concerned workman by bank as Exb.W-13 to Exb. W-13/D.

On the other hand the bank has failed to adduce any oral or documentary evidence to prove the defence taken by it.

Ld. Counsel for workman has referred to the following citations in support of his argument:-

1. Mohan Lal –vs – Management of M/s. Bharat Electronics Ltd., reported in (1981) 3 SCC 225.
2. Gammon India Ltd. –vs- Niranjan Dass, reported in (1984) 1 SCC 509.
3. Tapash Kumar Paul –vs- Bharat Sanchar Nigam Ltd. & Anrs, reported in (2014) 15 SCC 313.
4. Armed Forces Ex-Officers Multi Services Cooperative Society Ltd. –vs- Rashtriya Mazdoor Sangh (INTUC), reported in (2022) 9 SCC 586.
5. Allahabad Bank & Ors. –vs- Avtar Bhusan Bhartiya, reported in (2022) 13 SCC 202 and
6. Deepali Gundu Surwase –vs- Kranti Junior Adhyapak Mahavidyalaya (D.Ed) & Ors., reported in (2013) 10 SCC 324.

Gone through both oral and documentary evidence that have come on record.

From the insurance claim form of Exb.-W-12, it appears that the vehicle No. WB-06G-9338, Maruti Swift was/is owned by Central Bank of India was insured with Chola Mandalam M/s. General Insurance Co. Ltd. It further shows Central Bank of India had made a damage claim from Chola Mandalam M/s. General Insurance Co. Ltd. towards damage of the glass of the said vehicle and which was parked on the office car parking area.

Exb.W-12 prima facie proves that vehicle No.WB-06G-9338 was and is owned by Central Bank of India and it was not a personal private vehicle of the Executive.

Such facts makes the case of the bank, that Executive Officer who is provided with an official vehicle by the bank for official purpose has to engage a driver on his own as contended by Ld. Counsel for the bank to be unfounded and without any basis.

It is a matter of common knowledge for instance a Govt. official who is provided with an official vehicle cannot be asked to engage a driver of his own choice and fill up the petrol tank from his own pocket and later submit reimbursement bills for salary paid to the driver and towards fuel charges. It is the responsibility of the concerned Govt. Department to provide a vehicle with the driver along with the fuel facility. In case the vehicle happens to be a hired vehicle by the department, then the owner of the vehicle of such hired vehicle is supposed to provide a driver with fuel or otherwise the fuel is provided by the concerned Department as per the agreement.

Following the same analogy a bank who owns a vehicle and provide such vehicle for use of its Executive such as Dy. General Manager, then it is the duty of the bank to provide vehicle with a driver and fuel. That apart, the bank has failed to produce a single scrap of paper to show that the bank made payment to the concerned Executive Officer to whom the vehicle in question was provided as official vehicle had filed reimbursement bills towards salary of the driver and towards the fuel charges. Therefore, an inference can be drawn that the vehicle in question owned by the bank and provided to Dy. General Manager, Kolkata Region for his official use with a driver and fuel. Such inference stands corroborated by Exb.W-11 (collectively), the Petty Cash Indent Bill-cum-Voucher of Central Bank of India and which shows payment made by the bank directly to Sri Soumen Goswami, the concerned workman, projected as a Personal Driver of Dy. General Manager of Car No.WB-06G-9338, towards pocket expenses for outstation duty, towards parking charges paid by the said driver from his pocket, for air check of tyres and for washing of seat covers and towels of the said vehicle.

If the driver is engaged by the concerned Executive Officer of the bank, then, a question may arise why the bank made direct payment to the driver of vehicle No. WB-06G-9338 used by Dy. General Manager towards parking charges, air testing of the tyres of the vehicle, washing of seat cover and towels of the vehicle and not to the concerned Dy. General Manager. If the workman was a personal driver of Dy. General Manager, engaged by Dy. General Manager himself then it is the duty of the Dy. General Manager to make payment of parking charges, for air testing of tyres and for washing of seat covers and towels used in the vehicle to the driver directly and not by the bank.

That apart, Exb.W-10 series Log Book shows that the vehicle in question used to be driven by the concerned workman Sri Soumen Goswami and entries in the Log Book used to be signed by the Officer who used to use the same. If the vehicle had been a personal vehicle of Dy. General Manager, then question of maintaining of Log Book by the Dy. General Manager, signing the Log Book by him and the driver does not arise.

That apart, from Exb.W-5 to Exb.W-9 it is seen that Regional Office of Central Bank of India, Kolkata had and has vehicles owned by it. The bank used to get those vehicles driven by temporary and casual drivers engaged by it. That sometime in the year 2011, the bank decided to regularise the services of three casual drivers namely Sri Ramagya Pandey, Sri Jagdeo Prasad and Md. Rafique having required qualification in the post of 'Sub Staff cum Driver' on a condition that they would be absorbed as permanent driver as and when the permanent vacancy of driver would arise in Calcutta Region.

That Exb.W-5 further shows, those drivers whom it absorbed as Sub Staff cum Driver were originally designated as "Executive Personal Car Driver" like the present workman. Therefore, the concerned workman who also happens to be an Executive Personal Car Driver fall in the same category whom the bank has absorbed as Sub Staff cum Driver sometime in the year 2011.

Further, Exb.W-7 & Exb.W-8 lays down the eligibility criteria of those drivers already driving the vehicles owned by the bank and as personal driver of its Executives for absorption to the post of Sub Staff cum Driver.

From Exb.W-9 it is seen by issuing such circular, the bank has revised the cost of summer and winter uniform and shoes allowances to the personal driver of its Executives of different regions of India. That those drivers were asked to submit reimbursement bills for the same.

Another circular dt.14-02-2012 issued by the bank to its Zonal Office further shows that bank revised the salary of the personal drivers of its Executive Officers, to whom the bank has provided vehicles for official use.

Exb.W-13 series shows payment of different amounts to the concerned driver by the bank through cheques.

The contents of exhibits W-5 to W-9, Exb.W-13 series, Exb.W-11 (collectively) leave no room for doubt that the concerned workman was indeed engaged by bank as a driver to drive the vehicle owned by the bank and provided to its Dy. General Manager, Kolkata for his official use.

However, the documents which came on record and discussed above prove that not only the salary but sundry payments are also made to the driver by the bank for incurring sundry expenses by the driver from his own pocket and it was not the Dy. General Manager who was provided with the vehicle used to pay from his pocket and later he used to submit reimbursement bills.

The documents which have come on record prove that the concerned workman was indeed engaged by the bank though not following the proper procedure or orally with the help of their Security Guards etc. to drive the official vehicle owned by the bank and place for official use by Dy. General Manager for his official use. The concerned workman has rendered continuous service to the bank as a Driver since 2010 i.e. for more than 240 days in a calendar year till his retrenchment in the year 2017. In view of provisions of section 25-B of the Industrial Disputes Act, he is presumed to be in continuous services of the bank as a casual driver to drive a vehicle owned by the bank.

Nothing has come on record to show that before termination of the concerned workman, the bank issued show cause notice or paid one month wages or compensation to him as provided by section 25-F of the I.D. Act.

In view of the above, the Tribunal holds that the bank has indeed illegally terminated the services of the concerned workman who had rendered continuous service to the bank as a driver of its official vehicle provided to its Dy. General Manager sometime in the year 2010 till his retrenchment in the year 2017.

That Exb.W-4,5,6 and 7 further prove that the bank without creating any post of Drivers in the Regional Office used to get all its official vehicles driven by drivers engaged in casual manner. Such facts prove involvement of bank in an unfair labour practice by getting its vehicles driven by casual drivers and getting permanent nature of work done by engaging casual drivers.

In view of above, this Tribunal holds that termination of Sri Soumen Goswami, a casual driver by the bank without following procedures laid down in section 25-F of the I.D. Act, to be illegal. Therefore, the concerned workman is entitled to get a compensation of Rs.2,00,000/- (Rupees Two Lakh only) from the bank.

Bank is directed to make payment of such compensation within two months of publication of the award.

So far the claim for back wages as made by workman, this Tribunal is not inclined to pass any order as nothing has come on record that after retrenchment the workman is still unemployed. He being a professional driver, it cannot be assumed that he is sitting idle at home without any job. In fact it is a matter of common knowledge with the coming of Uber, Ola etc. Cab Services in India, there is high demand for experienced drivers. So, one cannot expect an experienced driver to remain jobless for more than seven years.

So far the claim of regularisation is concerned, the workman has failed to produce any document showing that there exists a permanent vacant post of a driver in the Regional Office at Kolkata or he possesses the eligibility criteria as laid down in Exb. W-7 & W-8. That apart Exb. 4, 5, 6 and 7 series shows that casual drivers senior to the present workman were absorbed by the bank against the post of Sub Staff cum driver in the year 2011 and on the condition that they would be absorbed in the permanent post of driver as and when same falls vacant.

Accordingly, Reference Case No.04 of 2020 is disposed of in favour of workman holding his retrenchment to be illegal and he is entitled compensation of Rs.2,00,000/- (Rupees Two Lakh only).

Justice K. D. BHUTIA, Presiding Officer

नई दिल्ली, 7 जनवरी, 2025

का.आ. 2327.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार देना बैंक (अब बैंक ऑफ बड़ौदा के नाम से जाना जाता है) के प्रबंधतंत्र, संबद्ध नियोजको और उनके कर्मकार श्री ललता प्रसाद तिवारी के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (23/2008) प्रकाशित करती है।

[सं. एल – 12012-45-2008-आईआर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 7th January, 2025

S.O. 2327.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. 23/2008**) of the *Central Government Industrial Tribunal-cum-Labour Court Kolkata* as shown in the Annexure, in the industrial dispute between the management of **Dena Bank (now known as Bank of Baroda)** and **Sri Lalta Prasad Tiwary**.

[No. L-12012-45-2008-IR (B-II)]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Present : Justice K. D. Bhutia, Presiding Officer.

REF. NO. 23 OF 2008

Parties : Employers in relation to the management of

Dena Bank (now known as Bank of Baroda)

VS

Sri Lalta Prasad Tiwary

Appearance:

On behalf of **Dena Bank (now known as Bank of Baroda)**: Ms. Papiya Dutta and Ms. Manisha Mondal, Ld. Advocate.

On behalf of the Workman: Mr. Gobinda Das Mitra, Ld. Advocate.

Dated: 17th December, 2024

AWARD

By order No. L-12012/45/2008 –IR(B-II) dated 10-09-2008, the Central Government, Ministry of Labour in exercise of power conferred u/s 10 (1) (d) and sub-section (2A) of Industrial Dispute Act, 1947 has referred the following disputes to this Tribunal for adjudication:-

“Whether the action of the management of Dena Bank in dismissing Sri Lalta Prasad Tiwari, Head Cashier Category ‘E’ posted in Beck Bagan Branch, Kolkata is justified? What relief the concerned workman is entitled?”

However, in view of provision of section 11-A of the I.D. Act, the issue with regard to the legality and validity of departmental enquiry was decided as a preliminary issue vide order dated 06-09-2024, whereby it has been held that the departmental enquiry held against the concerned workman to be valid and legal.

Therefore, now the question that need to be decided is, whether the management of Bank is justified in dismissing the workman from service of Head Cashier, Category-E w.e.f. 02-04-2007?

To decide such issue the background of the case need to be discussed in gist. That the concerned workman was a permanent Head Cashier Category ‘E’ of the then Dena Bank and posted at Beck Bagan Branch from August, 2005 to 22-11-2022.

That there was internal audit and inspection of the closing cash of the Branch by Sri Anjan Chakraborty, Sr. Manager, Head Office on 22-11-2005 and at that time it was detected that there was a closing cash balance of Rs.15,51,904.14 paise on 21-11-2005 and which is supposed to be the opening balance of next day i.e. 22-11-2005. At the time of inspection only Rs.11,82,904.14 was found in cash instead of Rs.15,51,904.14. So, there was a shortage of cash amounting to Rs.3,69,000/- from different packets of Rs.100/- and Rs.500/- denomination.

That Sri Tiwary, the Head Cashier in writing took the responsibility for the shortage of the aforesaid amount in presence of Sri Subhas Chandra Dutta, Sri Manik Bhusan Chatterjee and Sri A. K. Bhan, Sr. Manager of the Branch and undertook to make good of the loss suffered by the bank within a week and admitted non-involvement of any of the staff and Officers of the Branch in the shortage of the cash amount.

However, the workman in the present case has alleged that under coercion and duress of the higher authority he was compelled to take the responsibility for shortage in writing.

That bank has filed an FIR against the concerned workman for the misappropriation of Rs.3,69,000/-. On such FIR a criminal case has started against the workman being Special Case no. 1 of 2008 and which is still pending in the 1st Special Court, South 24 Parganas.

That he was placed under suspension on 22-11-2005 pending further investigation. He was served with the charge sheet on 28-01-2006 and later with corrigendum charge sheet on 20-02-2006. That he submitted explanation to the charges by admitting the same. However, management decided to hold a domestic enquiry on the charge. That Mr. Bikash Saha, Manager, Bhawanipur Branch was appointed as an Enquiry Officer.

That the workman fully participated in the enquiry held on 14-07-2006, 19-07-2006 and 24-07-2006 but declined to take assistance of any defence representative. He was allowed to cross examine the management witnesses but he declined. The concerned workman examined himself. That on the basis of both oral and documentary evidence produced by the management during domestic enquiry, the Enquiry Officer found the concerned workman guilty of charge of misconduct and submitted report on 09-08-2006 and on 06-12-2006.

The copy of both the findings of the Enquiry Officer was duly served upon the workman and who made his submission that he did not defrauded the bank.

The disciplinary authority concurring with the findings of the Enquiry Officer and taking into consideration the gravity of proved misconduct against the workman, proposed to terminate the service of the workman and issued a notice dt. 06-03-2007 to that effect and called the workman for personal hearing. That disciplinary authority after hearing the workman and considering the materials that have come against him in the departmental enquiry dismissed the workman from the service w.e.f. 02-04-2007 and that too with immediate effect.

The workman being aggrieved by the punishment of termination preferred an appeal before the Dy. General Manager, the Appellate Authority, but who confirmed the order of dismissal and rejected the appeal.

However, it has been alleged by the workman that he has been falsely implicated in the case by the bank in order to save the Accountant and the Sr. Manager, the other two custodians of the keys of the vault where the cash collected during the day’s business is kept. That without the combination of those three keys kept in the custody of Accountant, Sr. Manager and Chief Cashier, it is not possible to open the Vault where the cash collected during the business hours of the bank is kept in the end of the day’s business. Thus, workman has prayed for setting aside enquiry report or imposing lesser punishment other than dismissal from service.

On the other hand it is the case of the management since the workman has admitted the misappropriation of Rs. 3,69,000/- in writing and he cannot escape from such admission. Therefore, it has prayed for dismissal of the reference.

The concerned workman to substantiate his case and claim has examined himself as W.W. No. 1 and produced following documents:-

- 1) Copy of e-mail dt.22-11-2005 along with confessional statement of the workman dt.22-11-2005 and which has been marked as Exb.W-1 and W-1/A,
- 2) Copy of workman's letter dt.16-01-2007 to AGM/ Disciplinary Authority, Dena Bank has been marked as Exb.W-2,
- 3) Copy of report dt.22-11-2005 submitted by Sri Anjan Chakraborty, has been marked as Exb.W-3,
- 4) Copy of charge sheet dt.28-01-2006 has been marked as Exb.W-4.
- 5) Copy of suspension letter dt. 22-11-2005 has been marked as Exb.W-5, and
- 6) Copy of bank's memorandum dt.02-04-2007 has been marked as Exb.W-6.

On the other the bank has declined to examine any witness and also failed to prove those documents filed by it as per list.

The workman in his evidence in chief has stated that under duress and threat he was compelled to take the responsibility for the shortage of cash of Rs.3,69,000/- on 22-11-2005 in presence of other staff of the bank and had to give in writing about he being responsible for the shortage as he was assured by the bank official that no extreme and rigorous punishment will be imposed on him.

The confession is considered the best and most conclusive evidence, if the same is made voluntarily and credible. In the present case nothing has come on record to show challenging the action of the authority of bank for extortion of confession in writing, by putting him under duress and under coercion, the workman had filed a police complaint/FIR or lodged complaint against those bank officials who extorted his confession before the appropriate authorities immediate after the occurrence of the incident of extortion of confessional statement from him or thereafter. Therefore, it appears the concerned workman has failed to take any step against bank authority for obtaining written confessional statement from him under duress and coercion or he has been falsely implicated in the embezzlement of Rs.3,69,000/-by bank. Therefore, there is nothing on record to prove that admission/confession made by concerned workman was under coercion or under duress rather it can be assumed he had made the same voluntarily.

Further, he has admitted that bank lodged an FIR against him on the same incident and on the basis of which a criminal case being no. 1 of 2008 has been started against him. It has been admitted by Ld. Counsel for both sides such case is still pending for disposal. The concerned workman was granted bail in such criminal case by Hon'ble High Court on condition he would deposit of Rs.3,69,000/- with the Registrar General of the Hon'ble High Court, Calcutta. That concerned workman has deposited such amount while obtaining bail and such amount is still lying with the Registrar General of Hon'ble High Court, Calcutta.

Exb.W-1/A prima facie shows that the day the shortage of cash of Rs.3,69,000/- was detected during inspection on 22-11-2005, the concerned workman appears to have taken full responsibility for shortage and non-involvement of any other Clerk or Officer of the branch. He had assured the bank to make good of the loss suffered within a week in presence of three witnesses.

Exb.W-1, the information through e-mail dt. 22-11-2005 submitted by Sri Anjan Chakraborty, Sr. Manager, Head Office (Internal Audit & Inspection) shows that he conducted physical inspection of cash at Beck Bagan Branch of Kolkata Region on 22-11-2005 in the morning and found cash short by Rs.3,69,000/-. That Mr. Lalta Prasad Tiwary, Head Cashier, Category-E admitted and submitted a written statement that he had physically removed the cash and taken full responsibility for the shortage.

Exb.W-3, the detailed report of Sri Anjan Chakraborty, shows that on physical verification of the closing cash of 21-11-2005 i.e. the opening cash balance of 22-11-2005 in the morning, he found shortage of Rs.3,69,000/-. There were two bundles of (2 x 10 packets) of Rs.500/- denomination notes in the Double Lock Out of which three packets, 100 pcs. each were found in other 17 packets and there was total shortage of Rs.3,32,000/-. Further, seven packets of Rs. 500/- denomination notes had few pieces of Rs.500/- on top and in the bottom and in between they contained Rs. 100/- denomination notes. In those seven packets instead of having 700 pcs. of Rs.500/- denomination notes had only 18 pcs. of Rs. 500/- notes and remaining 682 pcs. were that of Rs.100/- denomination notes and there was shortage of Rs. 2,79,000/-. Those seven packets were completely wrapped with printed Dena Bank adhesive sticker and not visible anything from outside. In the balance 10 packets of Rs.500/- notes there was a shortage of 106 pcs. amounting to Rs.53,000/-. Thus, there was a shortage of Rs.3,32,000/- in the bundle of Rs.500/- notes.

There were three bundles of Rs.100/- denomination notes i.e. 3 x 10 packets i.e. 3000 pcs. but there was less than 100 pcs. of Rs. 100/- denomination notes in each packet and there was a shortage of Rs.37,000/- i.e. 370 pcs. of Rs.100/- denomination notes.

That the closing cash balance as per Cashier's Scroll was Rs.15,51,904.14 but on physical verification there was only Rs. 11,82,904.14 with shortage of Rs.3,69,000/-. The entire shortage was from Double Lock and not from Single Lock packet. That Sri Lalta Prasad Tiwary admitted in writing that he removed those and took full responsibility.

Exb.W-5 dt.22-11-2005 shows that on such admission by the concerned workman he was immediately placed under suspension.

Exb. W-4, dt. 28-01-2006 the charge sheet vividly contains the aforesaid misconduct on the part of the concerned workman.

Exb.W-6 shows that considering the admission made by the concerned workman, the report of the E.O., the gravity of admitted misconduct and after hearing the concerned workman the disciplinary authority had dismissed the workman from the service of Head Cashier.

That apart, the copy of the original proceeding lying in the record but not exhibited by the management for the reasons best known to it further proves that witnesses examined by the management of the bank had proved the presence of the concerned workman on duty on 21-11-2005. The signature of Sri Lalta Prasad Tiwary on the Cashier's Scroll of closing balance dt. 21-11-2005 and as per such scroll the closing balance of 21-11-2005 and opening balance in the morning of 22-11-2005 was to be Rs.15,51,904.14 but on physical verification in place of Rs.15,51,904.14 only Rs.11,82,904.14 was found.

The record of the enquiry proceeding further shows the workman Sri Lalta Prasad Tiwary was given opportunity of being defended by his representative but he declined to take any help but allowed to produce the document which was already marked as management Exb.No. M-5 as defence Exb.No.1.

The finding of the Enquiry Officer appears to be based on the inspection report, evidence which have come during enquiry and the admission/confessional statement made by the concerned workman.

That apart, it is settled proposition of law if the findings of the Enquiry Officer in his report is supported by some evidence, it is not the function of the court to review it and come to its own independent finding. The Enquiring authority is the sole judge of the fact so long as there is some legal evidence to substantiate the finding. It is not open to the Tribunal and Courts to substitute their subjective opinion in the place of legitimate conclusion arrived at by the domestic enquiry based on evidence produced on the side of the management and which cannot be discarded by the Tribunal on the ground on the absence of independent evidence.

So, it appears, the concerned workman who was holding the post of Head Cashier, Category-E and one of the custodians of the vault key had misused the situation which might have given him the opportunity to remove cash of Rs. 3,69,000/- from the days collection and which is treated as opening balance of next day. It is a matter of common knowledge that certain amount of cash as shown as closing balance of the bank is brought out from the vault on the next day morning to run the business transaction of the bank. Therefore, Bank generally engage a person among its eligible staff as Head Cashier, one of the custodians of the vault key, on whom it can repose faith as the post demands high integrity and honesty. But, in the present case, it appears the concerned workman taking advantage of his post and situation had managed to remove cash of Rs.3,69,000/- from the cash collected on 21-11-2005. That he has committed criminal breach of trust. So, having regards to the gravity of offence committed by him and confession to the crime made by him, justify the decision of the disciplinary authority to remove him from the service of Head Cashier, Category-E.

In view of the above, this Tribunal does not find any need to interfere with the decision taken by the authorities of the bank to remove the workman from the service.

Accordingly, Reference Case no. 23 of 2008 is dismissed by passing an award in final form. The order of termination of the service of the workman Sri Lalta Prasad Tiwary, Head Cashier, Category-E Dena Bank (at present Bank of Baroda) w.e.f. 02-04-2007 is hereby affirmed. Let the preliminary order dt. 06-09-2024 do form a part of this final award.

Justice K. D. BHUTIA, Presiding Officer